*Topics in General Supervision*

# South Dakota LEA Director Webinar Series

Webinar #3: Dispute Resolution

*Thursday, December 12, 2019 | 3:00-4:30 pm CST*

## Table of Contents

*Topics in General Supervision*

# South Dakota LEA Director Webinar Series

Webinar #3: Dispute Resolution

*Thursday, December 12th | 3:00-4:30 pm*

## Purpose of the Webinar Series

The South Dakota Department of Education (SD DOE), Special Education Programs, is providing a series of webinars for Local Education Agency (LEA) Special Education Directors with information on selected components of general supervision.

## Outcomes

By participating in this webinar, participants will:

- Identify dispute resolution as a general supervision responsibility of the SEA.
- Be familiar with the specific federal and State regulations on dispute resolution.
- Understand the importance of dispute resolution as a procedural safeguard.
- Be familiar with dispute resolution options available in South Dakota and how to access them.

## Co-Facilitators

Wendy Trujillo, Assistant Director of Special Education, SD Department of Education
Steve Smith, Program Specialist, Technical Assistance for Excellence in Special Education (TAESE)
Paula Souhrada-South Dakota Parent Connection

## AGENDA

### I. Getting Started! *Wendy*

- Briefly review the webinar series: components of general supervision
- Future webinar topics and dates
- Today's focus: dispute resolution
- South Dakota's Parent Connection – Paula Souhrada
- Outcomes

### II. South Dakota Parent Connection *Paula*

- Mission of South Dakota Parent Connection
- Parent Training and Information Center (PTI)
- Family to Family Health Information Center
- SD Parent Connection Services and Resources-Navigator Program, Workshops
- Resources/Online Resources

### III. The Federal Perspective: Dispute Resolution *Steve*

- Section 615 IDEA – Procedural Safeguards

    - Corresponding regulations – Subpart E Procedural Safeguards and Due Process Procedures for parents and children
        - 34 CFR 300.500 through 300.520
    - Discipline procedures
        - 34 CFR 300.530 through 300.537
- Required dispute resolution options – IDEA
    - Written state complaints
    - Mediation
    - Due process complaints
    - Resolution meetings, as part of a due process complaint
- Informal dispute resolution options (not required under IDEA)
    - IEP review
    - Facilitated IEP meeting
- Resources available

## II. The State Perspective *Wendy*

- Dispute resolution options in South Dakota
    - IEP facilitation
    - Mediation
    - Complaints
    - Due process hearings

## III. Q&A on the State Perspective *Wendy*

## IV. Summary and Next Steps *Steve*

- Stay tuned for the next webinar – SPP/APR – January 9, 2020
- Webinar evaluation via Survey Monkey

**Thanks for Participating!**

**PLEASE COMPLETE THE SURVEY ☺**

**https://www.surveymonkey.com/r/9BKCJRD**

south dakota
DEPARTMENT OF EDUCATION
Learning. Leadership. Service.

TAESE
Technical Assistance for Excellence in Special Education

# South Dakota LEA Director Webinar Series

## Webinar #3: Dispute Resolution
## December 12, 2019

# Purpose of the Webinar Series

- Identify the components of the general supervision system;
- Provide an overview of regulations related to selected general supervision topics to LEA Directors;
- Provide an opportunity for Q&A on the specific topics in general supervision.

# Webinar Schedule

| | |
|---|---|
| October 9, 2019 | Accountability/RDA |
| November 14, 2019 | Child Count |
| ***December 12, 2019*** | ***Dispute Resolution*** |
| January 9, 2020 | SPP/APR |
| February 6, 2020 | Budget/Fiscal |

# Materials and Resources

- Agenda
- PPT Handout
- **Dispute Resolution Resources**
- OSERS Memo and Q&A
- CADRE Continuum of DR
- DR Processes Comparisons
- DR Article
- Facilitated IEPs
- Trends Article on DR

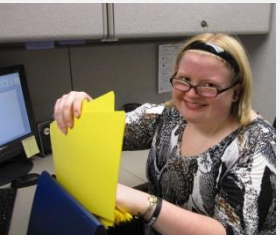
# Outcomes for Today

**Participants will:**

- Identify dispute resolution as a general supervision responsibility of the SEA.
- Be familiar with the specific Federal and State regulations on dispute resolution.
- Understand the importance of dispute resolution as a procedural safeguard.
- Be familiar with dispute resolution options available in South Dakota and how to access.

# South Dakota Parent Connection

***Paula Souhrada, Navigator Program Coordinator***



# Our Mission:

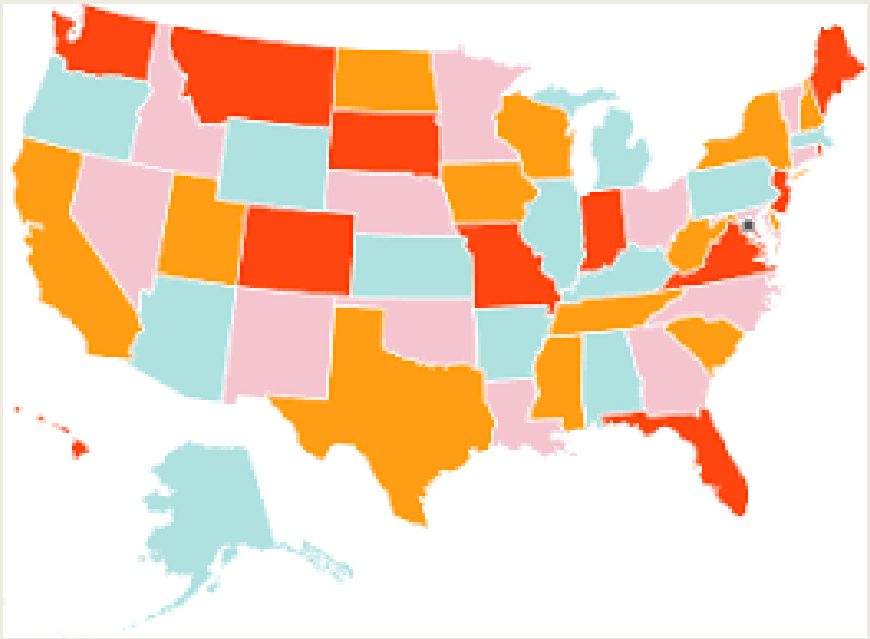
**To connect families caring for children, youth and young adults (birth to age 26) with the full range of disabilities or special health care needs to information, training and resources in an environment of support, hope and respect.**

# Here to Help

**PTIs** www.parentcenterhub.org

**F2Fs** http://familyvoices.org/ncfpp/f2fs/

**Family Voices** www.familyvoices.org



# SD Parent Connection Services and Resources

**Individualized information, assistance and support to families and professionals.**

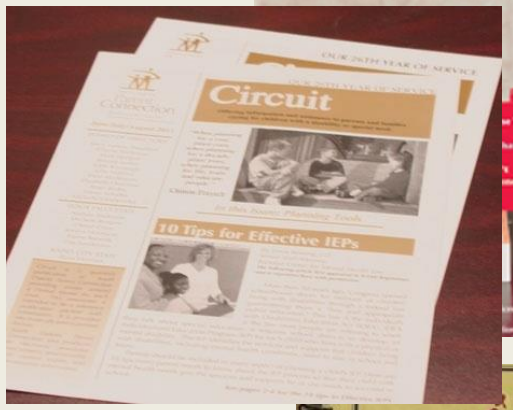
# Navigator Program

- Partnership with SDPC and Special Education Programs
- Informal problem-solving process available statewide to
  - ✓ Locate and utilize information and resources
  - ✓ Improve family-school communication
  - ✓ Build (or re-build) partnership.
  - ✓ Reach or make progress towards agreement
- Without cost to families and schools

# Workshops

- Parent/Professional Partnership,
- Disability Specific, Services & Supports
- Special Education/IEPs, Section 504, Parent Rights
- Child Development, Sibshops, PCT,
- Serving on Groups (family leadership)…

# Resources

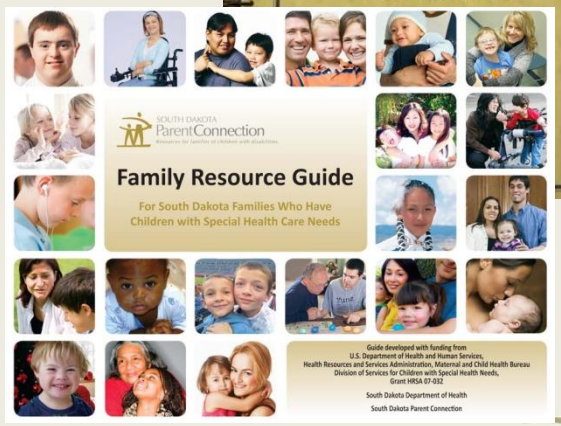




## Newsletters

- ✓weConnect, Circuit

## Guides

- ✓What Parents Should Know…
- ✓Dare to Dialogue
- ✓Family Resource Guide

# Resources

## Organizers

- ✓FILE, MyFILE
- ✓Communication Log

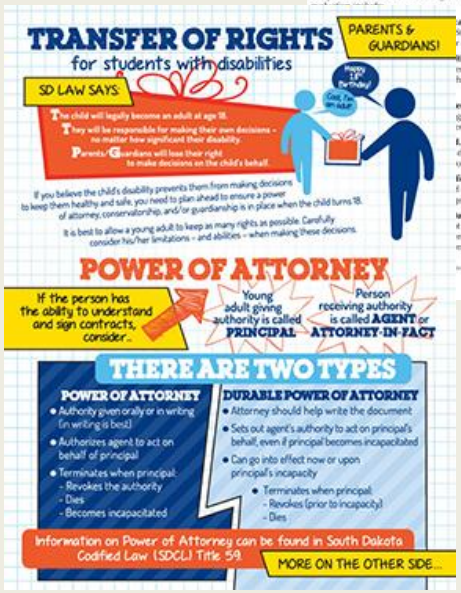
## Parent Briefs

- ✓Behaviors, Evaluation, 18, Early Childhood…

## Infographics

- ✓Transfer of Rights



# Online Resources

**www.sdparent.org**

**m.sdparent.org**

**www.facebook.com/sdparentconnection**

# At Your Service

**How can we assist you and the children/families you serve?**

SOUTH DAKOTA
# ParentConnection

*Resources for families of children with disabilities.*


**Sioux Falls Office**
3701 W. 49th Suite 102
Sioux Falls, SD 57106

Phone: 605-361-3171

**Rapid City Office**
7110 Jordan Drive
Rapid City, SD 57701

Phone: 605-348-0305

**Aberdeen Office**
1707 4th Ave, Suite C
Aberdeen, SD 57401

Phone: 605-681-0709


**1-800-640-4553**

**www.sdparent.org**

# What is the Dispute Resolution?

# Big Picture!

**IDEA Part B—Reauthorization 2004**

Sec. 611 AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

Sec. 612 STATE ELIGIBILITY.

Sec. 613 LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

Sec. 614 EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

**Sec. 615 PROCEDURAL SAFEGUARDS.**

Sec. 616 MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT.

Sec. 617 ADMINISTRATION.

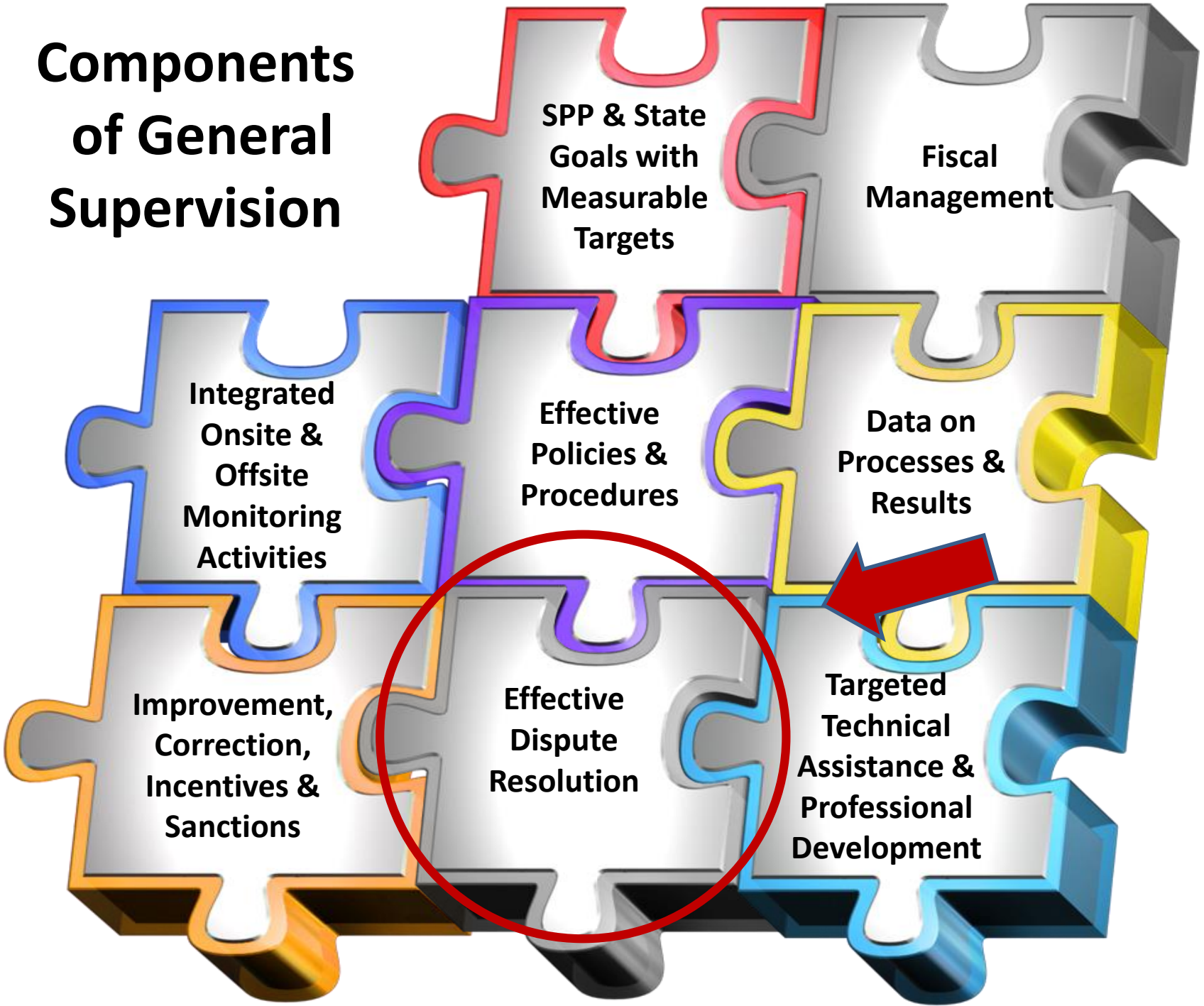
Sec. 618 PROGRAM INFORMATION.

Sec. 619 PRESCHOOL GRANTS.

# Corresponding Regulations 34 CFR

- Subpart E- Procedural Safeguards Due Process Procedures for Parents and Children
  - 300.500 through 300.520
- Subpart E- Discipline Procedures
  - 300.530 through 300.537

# Components of General Supervision



# What It's All About!

**Accountability!!!**

Section 616 of the 2004 Amendment says,

**"The primary focus of Federal and State monitoring activities:**

A. Improving educational results and functional outcomes for all children with disabilities; and
B. Ensuring that States meet those requirements…with a particular emphasis on those requirements that are most closely related to **improving educational results** for children with disabilities."

# What is Dispute Resolution?

Section 615 of the IDEA identifies procedural safeguards, which are designed to protect the rights of parents and students with disabilities…

# What is Dispute Resolution?

…In addition, procedural safeguards provide mechanisms for school and families to resolve disputes that are inherent to the special education process.

# SEA Requirements

States and entities that receive Part B funds for special education are required to offer four processes to resolve disagreements that may arise under IDEA.

# SEA Requirements

The required processes include:

1. Written state complaints.
2. Mediation.
3. Due process complaints.
4. Resolution meetings, as part of a due process proceeding.

# Written State Complaints

- 1 year to file complaint from when violation occurred.
- Anyone can file a state complaint.
- State Education Agency has 60 days to render decision.

# Mediation

- Can be used at anytime in the process.
- Requested only by Parent or Local Education Agency.
- Produces legally binding agreement.

# Due Process Complaints

- Can only file a Due Process Complaint if there has been a violation in these areas:
  - **Identification**
  - **Evaluation**
  - **Placement**
  - **FAPE**

# Resolution Meeting as part of Due Process Proceeding

- **By 10th Day** LEA acknowledges Due Process Complaint;
- **By 15th Day** Resolution Meeting must be scheduled;
- **By 30th Day** Completion of Resolution Meeting;
- **By 45th Day** Due Process Decision rendered;

# Informal Dispute Resolution

- Informal approaches to dispute resolution:
  - IEP review meeting
  - Facilitated IEP meeting

✓ IEP facilitation is not mentioned in IDEA. Therefore, there is no requirement for states or LEAs to offer it.

# Trends in Dispute Resolution

- Since 2006, adversarial processes such as Written State Complaints and Due Process Complaints have been on the decline.

- Optional, collaborative approaches to dispute resolution such as Mediation and IEP facilitation are on the increase.

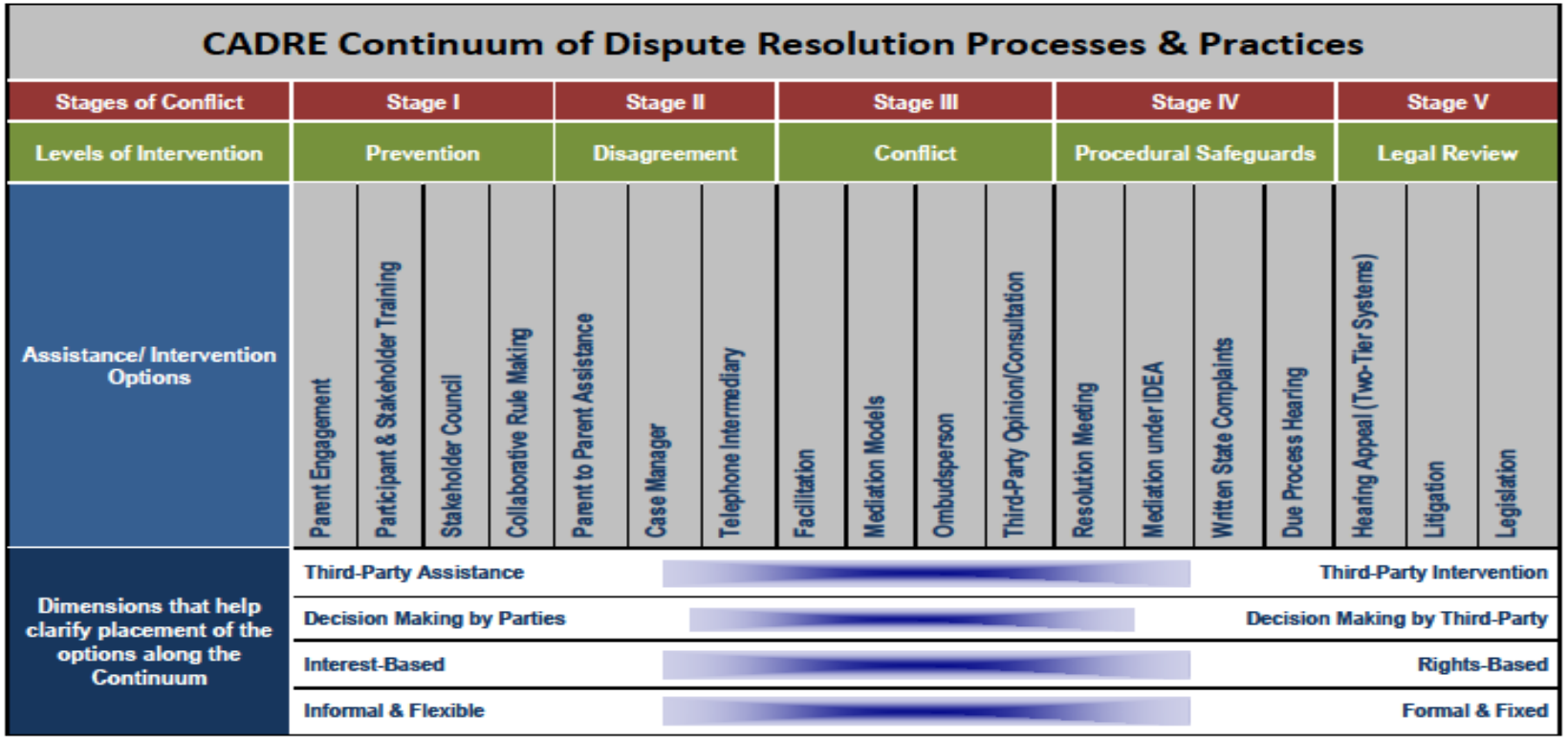
(CADRE, Trends in Dispute Resolution under IDEA, 2016)

# Continuum of Dispute Resolution Options

- Correspond to stages of conflict
  - Prevention
  - Disagreement
  - Conflict
  - Procedural safeguards
  - Legal review

(CADRE, Continuum of Dispute Resolution Options Processes & Practices)

# Continuum of Dispute Resolution Options




http://www.directionservice.org/cadre/aboutcontinuum.cfm

# State Procedures

DR Options Continued

From the State Perspective:

South Dakota DR Procedures

# SOUTH DAKOTA DISPUTE RESOLUTION

December 12, 2019

Wendy Trujillo

Assistant Director and Dispute Resolution Coordinator

Wendy.Trujillo@state.sd.us

# DISPUTE RESOLUTION OPTIONS

**IEP FACILITATION**

**MEDIATION**

**STATE COMPLAINT**

**DUE PROCESS HEARING**

THESE OPTIONS ARE AVAILABLE TO PARENTS AND DISTRICTS

# IEP FACILITATION

IEP FACILITATION IS NOT A FEDERAL REQUIREMENT, THEREFORE WE DO NOT HAVE FEDERAL MANDATES.

# IEP FACILITATION – WHAT IS IT?

- Parent and District are in disagreement about how the IEP is written
- Impartial Facilitator is chosen to promote effective communication to assist parties in developing an acceptable IEP.

# IEP FACILITATION – REQUEST

- Parent or district submits written request
  - Both parties must agree to facilitation
  - Request should be submitted at least 2 weeks prior to IEP meeting
- Sample forms:

http://www.doe.sd.gov/oess/sped-complaints.aspx

- Dispute Resolution Coordinator (DRC) coordinates facilitator, location, times, etc with both parties.

# FACILITATOR ROLE

- Fosters open communication to develop satisfactory IEP
- Keeps team centered on student-focused questions such as “Where does the student need to be a year from now?”
- Assists the team to resolve disagreements
- Asks clarifying questions about issue(s).
- Keeps the team members on task.
- Maintains impartiality and does not take sides, place blame or determine if a particular decision is right or wrong.
- Does not impose a decision on the group.

# IEP FACILITATION –FACILITATOR ROLE

- Does the facilitator make decisions?
  - ***No.*** The facilitator, who is ***not*** a member of the team, facilitates communication among the IEP team members and assists them in developing an appropriate IEP for the student. The members of the IEP team are the decision-makers.

# IEP FACILITATION – HOW TO PREPARE

- Identify Issues
- Make a list of student/child's needs
- Organize documents you want to share and bring extra copies
- Be willing to listen and consider other's ideas
- Think about how you will be prepared to handle emotions at the meeting
- Arrive a few minutes early to prepare for participation

# IEP FACILITATION – WHAT HAPPENS NEXT?

- District will implement the IEP as written
- DRC will send parent and district a survey with a self-addressed stamped envelope
  - Identify Issues
  - Improve processes


- What if IEP facilitation is unsuccessful?
  - Parent has right to file mediation request, complaint, or due process


REGULATIONS:

ARSD 24:05:30:09 TO 24:05:30:09.03

# MEDIATION - WHAT IS IT?

- Peaceful Settlement or compromise
  - Neutral mediator who assist parents and school officials in discussing issues, concerns, or complaint in order to resolve amicably
  - Legally binding agreement
  - Voluntary for both parties
  - Confidential – can't be used in due process hearings or civil lawsuits

# MEDIATION - REQUESTS

- Party submits written request for Mediation that includes:
  - Students Name
  - Summary of the Issues
  - Parties Involved
  - Parent and District Contact Information
- Sample forms: http://www.doe.sd.gov/oess/sped-complaints.aspx
- Dispute Resolution Coordinator (DRC) coordinates mediation activities to include: location, notice, contact between parties, etc.

# MEDIATION – MEDIATOR ROLE

- Facilitates communication and negotiation
- Assists both parties to express views/positions
- Helps both parties to understand others perspectives
- Assists with generating potential solutions
- Records agreements in writing and obtains signatures from both parties

# MEDIATION – DISTRICT RESPONSIBILITY

- District representative has authority to enter into a binding agreement on its behalf (make all program and fiscal decisions)
- Attorneys
  - While there is nothing in the statute or the regulations that prohibit a parent or public agency from having an attorney attend, the presence of an attorney could contribute to a potentially adversarial atmosphere that may not necessarily be in the best interests of the child.

# MEDIATION – HOW TO PREPARE

- Identify Issues that you want to discuss
- Make a list of student/child's needs
- Organize documents you want to share and bring extra copies
- Be willing to listen and consider other's ideas
- Think about how you will be prepared to handle emotions at the meeting
- Arrive a few minutes early to prepare for participation

# MEDIATION – WHAT HAPPENS NEXT?

- DRC will send parent and district a survey with a self-addressed stamped envelope
  - Identify Issues
  - Improve processes


- If Mediation is unsuccessful the parents have option to file complaint or due process


# STATE COMPLAINTS

REGULATION:

ARSD 24:05:30

# COMPLAINT - WHAT IS IT?

A state complaint is filed when it is believed that that a public school district or agency has not followed the IDEA and complainant is requesting the State Educational Agency (SEA) investigate.

Any person or organization may file a state complaint.

# COMPLAINT - REQUEST

- Complainant will complete and submit formal complaint
  - Q&A and a sample state complaint request can be found at http://www.doe.sd.gov/oess/sped-complaints.aspx
  - Formal complaint must include:
    - Student Information
    - Complainant Information
    - Statement of the Violations
    - Statement of Facts or Supporting Evidence
    - List of Documents to be Reviewed
    - Desired Outcomes

# COMPLAINT - HOW IT WORKS CONT…

- A copy of the complaint and supporting documents must be sent to the other party at the same time it is submitted to DOE
- Mediation is offered while complaint is in process
  - Does not delay the 60 day timeline
- Complainant investigator (CI) is assigned by DRC

# COMPLAINT - COMPLAINT INVESTIGATOR ROLE

- CI interviews all parties and requests documents to review
- CI will make determinations
- Writes report for SEP review and finalization
  - Complaint Investigations are completed and final report is sent within 60 calendar days of SEP receiving the request

# COMPLAINT - WHAT HAPPENS AFTER INVESTIGATION?


- Final Report issued by SEP – 60 calendar days
  - Findings of non-compliance will outline corrective actions
  - No findings – no further action needed
- District submits plan of intent within 30 calendar days
- District has 1 year from report date to complete corrective actions
- Accountability review during the next accountability review cycle after closure (on or off-site). Ex. Close between July 1, 2018 and June 30, 2018 you will be reviewed in 19-20 SY.

# DUE PROCESS HEARING

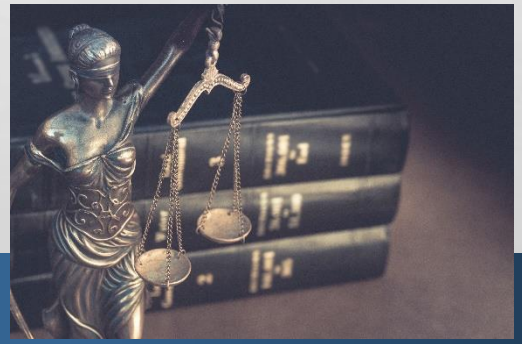
REGULATIONS:

ARSD 24:05:30

# DUE PROCESS HEARING - WHAT IS IT?

A process used to resolve a formal complaint made by a parent or public agency to resolve disagreements related to FAPE through hearing officer.

Due Process Complaints must be filed within 2 years of the date when complainant was aware of the violation.



# DUE PROCESS HEARING - OUTCOME/RESULT

- A written decision with findings of fact and conclusions of law, which may order specific activities to be carried out.
- The decision is legally binding on both parties.

# DUE PROCESS HEARING - HOW IT WORKS

- A parent or district may file a due process request
- Example forms located at http://www.doe.sd.gov/oess/sped-complaints.aspx
  - Must include
    - Student & Parent/Guardian Information
    - District Information
    - Description of each issue
      - Related Facts
      - Proposed Resolution
- DOE/SEP assigns Hearing Officer
- Hearing officer contacts all parties to schedule proceedings

# DUE PROCESS HEARING - DISTRICT RESPONSIBILITY

- District - 10 days to respond to request via PPWN
- 15 days to schedule a resolution session
  - If parties agree to resolution session the 45 day timeline for conducting hearing is suspended
    - If no resolution is made within 30 days, the 45 timeline begins
    - If agreement is reached between parties prior to 45 days they must submit agreement in writing and signed by both parties
      - Parties have 3 days to void agreement and continue to hearing
  - Waive right to resolution or use mediation the 45 days remains
    - Both parties must be in agreement to waive the resolution session
  - District Resolution tracking form is completed and returned to SEP

# DUE PROCESS HEARING - STAY PUT

From the date that the complaint is filed until the decision is final, the child stays in his or her current educational placement, unless the parent and the school district agree otherwise – this is called “stay-put.”

# DUE PROCESS HEARING - HOW TO PREPARE BOTH PARTIES

- Be prepared to:
  - Gather and submit evidence
  - Prepare testimony, witness lists, and other hearing documents
  - Question and cross-examine witnesses

- School districts are typically represented by attorneys. If a parent hires an attorney, it is at their own expense. However, prevailing party may try to recover fees in a separate court proceeding.

# DUE PROCESS HEARING – HEARING OFFICER ROLE

- Once hearing officer receives appointment from DOE/SEP they contact all parties
- Is the main point of contact
- Schedule pre-hearing and hearing date(s) with all parties
- Inform all parties of requirements and expectations
- The complaint is heard and final decision is made by the hearing officer who is not involved in the child's education
- Issues final decision
  - Submits final report to parents, district, and SEP
  - Final decision must be issued within 45 calendar days from the end of the resolution period, unless either party requests an extension


# DUE PROCESS HEARING - WHAT HAPPENS AFTER FINAL DECISION IS ISSUED?

- The decision is appealable in state or federal court
- The prevailing party may attempt to recover attorneys' fees in a separate court action
- DRC oversees the districts corrective actions to ensure completion

# DUE PROCESS HEARING - WHAT HAPPENS AFTER FINAL DECISION IS ISSUED?

- The district will submit documentation supporting completion of each corrective action
- Upon successful completion the DRC will send a letter stating corrective actions have been successfully completed to the district

# EXPEDITED DUE PROCESS HEARING

REGULATIONS:

ARSD 24:05:30

# DUE PROCESS HEARING - WHEN IS AN EXPEDITED DUE PROCESS USED?

- **ONLY** available when parents disagree with the school districts discipline decision that affects the students placement due to students behavior being dangerous to themselves or others.
- A parent or school district may file
- A hearing officer is assigned and process is similar to a regular due process hearing – shortened timelines
- DRC oversees the districts Corrective Actions

# DUE PROCESS HEARING - DIFFERENCE WITH EXPEDITED DUE PROCESS HEARING

- Resolution session must occur within 7 days unless parties agree in writing to not have meeting or choose mediation
- Hearing timeline proceeds if the issue is not resolved within 15 days
- Hearing must be held within 20 school days
- Decision is issued within 10 days of the hearing

# QUESTIONS?

# DISPUTE RESOLUTION RESOURCES

- http://doe.sd.gov/oess/sped-complaints.aspx
  - Q&A
  - Sample Documents
  - State Data and Complaint Logs
- OSEP Dispute Resolution Q&A: https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/acccombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf
- CADRE: http://www.directionservice.org/cadre/index.cfm
  - http://www.directionservice.org/cadre/pdf/DisputeResolutionProcessComparisonChart.pdf
- Dispute Resolution in Special Education Matters Webinar by Jim Walsh: http://www.doe.sd.gov/oess/SPED-webinars.aspx

# Summary and Next Steps

- Familiarize yourself with the appropriate regulations.
- Be aware of what Dispute Resolution under the IDEA means, including the various options available.
- Be familiar with resources available.
- Be proactive!

# Webinar Evaluation

https://www.surveymonkey.com/r/9BKCJRD

Thanks in advance for taking a few moments to complete!


Keep the main thing
the main thing!


Utah State University
CENTER FOR PERSONS WITH DISABILITIES

This document was developed by the Center for Technical Assistance for Excellence in Special Education (TAESE) of the Center for Persons with Disabilities, University Center for Excellence in Developmental Disabilities in the Emma Eccles Jones College of Education and Human Services at Utah State University.

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

July 23, 2013
Contact Person: Gregg Corr
Telephone: 202-245-7309

OSEP MEMO 13-08

**MEMORANDUM**

TO: Chief State School Officers
State Directors of Special Education

FROM: Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

SUBJECT: Dispute Resolution Procedures under Part B of the Individuals with Disabilities Education Act (Part B)

The purpose of this Memorandum is to introduce the updated and combined question and answer (Q&A) document on the dispute resolution procedures that are set out in the Part B regulations, published in the Federal Register on August 14, 2006, including mediation procedures (34 CFR §300.506), State complaint procedures (34 CFR §§300.151-300.153), and due process procedures (34 CFR §§300.507-300.516 and 300.532-300.533). The Office of Special Education Programs (OSEP) encourages parents and local educational agencies (LEAs) to work collaboratively, in the best interests of children, to resolve the disagreements that may occur when working to provide a positive educational experience for all children, including children with disabilities. To this end, the IDEA and its implementing regulations provide specific options for resolving disputes between parents and public agencies, which can be used in a manner consistent with our shared goals of improving results and achieving better outcomes for children with disabilities.

The attached Q&A document provides responses to frequently asked questions to facilitate and enhance States' implementation of the Part B dispute resolution procedures. The Q&A document incorporates prior clarification of the requirements of Part B of the IDEA and the Part B regulations that OSEP has provided on the dispute resolution procedures in policy memoranda, Q&A documents, letters responding to individual requests for policy clarification, and responses to public comments published in regulatory notices in the Federal Register. Three previous memoranda are being updated and reissued at this time as part of the Q&A document: OSEP Memorandum 94-16 issued on March 22, 1994; OSEP Memorandum 00-20 issued on July 17, 2000; and OSEP Memorandum 01-5 issued on November 30, 2000. Some of the questions and

answers in the Q&A document were previously contained in *Questions and Answers on Procedural Safeguards and Due Process Procedures For Parents and Children with Disabilities*, January 2007, updated June 2009. These questions have been revised, amended, and updated, as appropriate.

The Q&A document consists of five sections: mediation; State complaint procedures; due process complaints and due process hearing procedures; resolution process; and expedited due process hearings.

As part of its general supervisory responsibility, a State educational agency (SEA) must ensure implementation of IDEA's dispute resolution procedures in a manner that meets the requirements of the IDEA. OSEP encourages States and their public agencies to work cooperatively with parents to attempt to address their differences through informal means whenever possible. However, when those informal means prove unsuccessful, States should recognize the benefits of encouraging their public agencies to voluntarily engage in mediation with parents, consistent with 34 CFR §300.506. Also, since the inception of the Part B program in 1977, State complaint procedures have provided a very effective and efficient means of resolving disputes between parents and public agencies, without the need to resort to more formal, adversarial, and costly due process proceedings.

Sections A and B of the Q&A document provide guidance on mediation and State complaint procedures, respectively. Section C of the Q&A document describes procedures for due process complaints as well as procedures for due process hearings when the dispute between the parents and the public agency cannot be resolved through informal means, through mediation, or through the resolution process. Even when resorting to IDEA's due process procedures becomes necessary, States and their public agencies should focus on ways to resolve the dispute with parents as early as possible at the local level. Therefore, appropriate use of the resolution procedures, described in Section D of the attached Q&A document, provides an effective and efficient way of resolving disputes at the local level when a parent files a due process complaint. Section E of the Q&A document addresses procedures for expedited due process hearings when a parent or a public agency files a due process complaint regarding a disciplinary matter.

This Memorandum and the attached questions and answers are available at http://idea.ed.gov and http://www2.ed.gov/about/offices/list/osers/osep/policy.html**.**

We hope that you find this information helpful. If you or members of your staff have questions, please contact Gregg Corr or your State Contact in OSEP's Monitoring and State Improvement Planning Division.

Thank you for your continued commitment to improving results for children and youth with disabilities and to ensuring that the rights of children and their parents are protected.

Attachment

# QUESTIONS AND ANSWERS ON IDEA PART B DISPUTE RESOLUTION PROCEDURES

Revised July 2013

Regulations for Part B of the Individuals with Disabilities Education Act (IDEA) were published in the *Federal Register* on August 14, 2006, and became effective on October 13, 2006. Supplemental IDEA regulations were published on December 1, 2008, and became effective on December 31, 2008. Since publication of the regulations, the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education (Department) has received requests for clarification of some of these regulations. This is one of a series of question and answer (Q&A) documents prepared by OSERS to address some of the most important issues raised by requests for clarification on a variety of high-interest topics. Each Q&A document will be updated to add new questions and answers as other important issues arise or to amend existing questions and answers as needed.

OSERS issues this Q&A document to provide parents, parent training and information centers, school personnel, State educational agencies (SEAs), local educational agencies (LEAs), advocacy organizations, and other interested parties with information to facilitate appropriate implementation of the IDEA dispute resolution procedures, including mediation, State complaint procedures, and due process complaint and due process hearing procedures. This Q&A document represents the Department's current thinking on these topics. It does not create or confer any rights for or on any person. This guidance does not impose any requirements beyond those required under applicable law and regulations. Further, this document pertains only to IDEA Part B and is not meant to interpret Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990.[1]

This Q&A document updates and revises, as appropriate, the Department's guidance, entitled *Questions and Answers on Procedural Safeguards and Due Process Procedures for Parents and Children with Disabilities* issued in January 2007 and revised in June 2009. This Q&A document also updates and revises the information and questions and answers contained in the following Office of Special Education Programs (OSEP) Memoranda: 94-16, *Complaint Management Procedures Under Part B of the Individuals with Disabilities Education Act - Public Law 101-476 (Part B)*, issued March 22, 1994; 00-20, *Complaint Resolution Procedures under Part B of the Individuals with Disabilities Education Act (Part B)*, issued July 17, 2000; and 01-5, *Questions and Answers on Mediation*, issued November 30, 2000. This Q&A document replaces the previously issued OSEP Memoranda and Q&A document. Generally, the questions and corresponding answers presented in this Q&A document required an interpretation of the IDEA and its implementing regulations and the answers are not simply a restatement of the statutory or regulatory requirements. The responses presented in this

[1] For more information about these laws please contact the Office for Civil Rights Enforcement Office that serves your State. Contact information for these offices can be found at: http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm.

document generally are informal guidance representing the interpretation of the Department of the applicable statutory or regulatory requirements in the context of the specific facts presented and are not legally binding. However, where controlling case law on these issues exists in your jurisdiction, it generally would be legally binding. The Q&As in this document are not intended to be a replacement for careful study of the IDEA and its implementing regulations or of controlling case law. The IDEA, its implementing regulations, and other important documents related to the IDEA are found at **http://idea.ed.gov**.

If you are interested in commenting on this guidance, please email your comments to OSERSguidancecomments@ed.gov and include Dispute Resolution Procedures in the subject of your email or write us at the following address: Gregg Corr, U.S. Department of Education, Potomac Center Plaza, 550 12th Street, S.W., Room 4108, Washington, D.C. 20202.

## *Contents*

## *A. Mediation*

**Authority:** The requirements for mediation are found in the regulations at 34 CFR §300.506.

---

**Question A-1:** What is mediation?

**Answer:** Mediation is an impartial and voluntary process that brings together parties that have a dispute concerning any matter arising under 34 CFR part 300 (the Part B of the IDEA (Part B) regulations) to have confidential discussions with a qualified and impartial individual. The goal of mediation is for the parties to resolve the dispute and execute a legally binding written agreement reflecting that resolution. Mediation may not be used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B. 34 CFR §300.506(b)(1) and (8).

---

**Question A-2:** Can OSEP provide a historical context for the mediation provisions in the IDEA statute and regulations?

**Answer:** States have successfully used mediation as an informal mechanism to resolve disputes between parents and public agencies, even though they were not required to offer mediation prior to 1997. The Education for All Handicapped Children Act,[2] originally enacted into law in 1975, contained no requirement for States to offer mediation. In a comment to the initial regulations implementing Part B of the Education of the Handicapped Act (EHA) published in 1977, the former Department of Health, Education, and Welfare acknowledged that many States pointed to the success of using mediation as an intervening step prior to conducting a formal due process hearing. The comment indicated that States may wish to suggest that mediation be used to resolve disputes with parents, provided that it was not mandatory and did not operate to deny or delay a parent's right to a due process hearing. 45 CFR §121a.506 and Comment (1977).[3] Based on States' success in using mediation for more than two decades, Congress included a specific provision in the IDEA Amendments of 1997, Public Law (Pub. L.) 105-17. Under section 615(e) of the IDEA, as amended in 1997, States were required to establish mediation procedures to resolve disputes between parents and public agencies, at a minimum, whenever a due process hearing was requested. In

[2] The Education for All Handicapped Children Act refers to Public Law (Pub. L.) 94-142. It is the predecessor statute to Part B of the IDEA.

[3] After the U.S. Department of Education was created, the Part B regulations in part 121a of title 45 of the Code of Federal Regulations (CFR) were removed and recodified in title 34 CFR part 300. The former 34 CFR §300.506 and its accompanying comment were unchanged and remained in effect until May 11, 1999.

the 2004 Amendments to the IDEA, Congress broadened this provision to require States to have procedures to offer mediation to resolve disputes concerning any matter arising under Part B of the IDEA, including matters arising prior to the filing of a due process complaint.

---

**Question A-3:** What are the benefits of mediation?

**Answer:** Although mediation cannot guarantee specific results, States' experience in using mediation has demonstrated a number of benefits. Mediation can be a less expensive and less time-consuming method of dispute resolution between parents and local educational agencies (LEAs), or, as appropriate, State educational agencies (SEAs) or other public agencies. Mediation may result in lower financial and emotional costs compared to due process hearings. Assistance to States for the Education of Children with Disabilities and Early Intervention Program for Infants and Toddlers with Disabilities, Final Regulations, *Analysis of Comments and Changes*, 64 FR 12406, 12611 (Mar. 12, 1999).[4] Because mediation is voluntary and the parties have the flexibility to devise their own remedies, mediation also may result in written agreements where parties have an increased commitment to, and ownership of, the agreement. Some parties report mediation as enabling them to have more control over the process and decision-making. Additionally, because both parties have been involved in developing the mediation agreement, remedies can be individually tailored and contain workable solutions.

Mediation may also be helpful in resolving State complaints under 34 CFR §§300.151-300.153, thus avoiding the need for the SEA to issue a written decision on the complaint. A State's minimum State complaint procedures must provide an opportunity for a parent who has filed a State complaint and the public agency to voluntarily engage in mediation consistent with 34 CFR §300.506. 34 CFR §300.152(a)(3)(ii).

---

**Question A-4:** Who are the parties to mediation? Can States offer mediation to individuals and organizations other than parents?

**Answer:** Parties to mediation are parents[5] of a child with a disability, as defined in 34 CFR §300.30 and the LEA, or, as appropriate, a State agency in

[4] This Q&A document includes references to Assistance to States for the Education of Children with Disabilities and Early Intervention Programs for Infants and Toddlers with Disabilities, Final Regulations, *Analysis of Comments and Changes*, 64 Federal Register 12406, 12537-12656 (Mar. 12, 1999). This document will be cited throughout this Q&A as "64 FR" with the appropriate page number.

[5] Under 34 CFR §300.30(a), the term "parent" means: (1) a biological or adoptive parent of a child; (2) a foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent; (3) a guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State); (4) an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the

accordance with 34 CFR §300.228, the SEA, or other public agencies[6] that have responsibility for the education of children with disabilities.
34 CFR §300.506. Unlike State complaints, which can be filed by an organization or individual other than the child's parents, the IDEA contemplates that mediation must be made available only to parents and public agencies to resolve disputes involving any matter under 34 CFR part 300, including matters arising prior to the filing of a due process complaint. While the IDEA does not require that mediation be made available to non-parents, there is nothing in the IDEA that would prohibit a State from making mediation available to resolve disputes between public agencies, organizations, or individuals other than the child's parent regarding matters arising under the IDEA and its implementing regulations.
34 CFR §300.152(a)(3)(ii) and (b)(1)(ii); see also Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Regulations, *Analysis of Comments and Changes*, 71 FR 46540, 46604 (Aug. 14, 2006).[7]

---

**Question A-5:** What is a mediator?

**Answer:** A mediator is a qualified and impartial individual who facilitates confidential discussions to achieve a resolution of the dispute that is mutually agreeable to the parties. The requirement that the mediator is qualified means that the individual is trained in effective mediation techniques and knowledgeable in laws and regulations relating to the provision of special education and related services. 34 CFR §300.506(b)(1)(iii) and (b)(3)(i). The impartiality requirement means that an individual who serves as a mediator may not be an employee of the SEA or the LEA that is involved in the education or care of

---

child lives, or an individual who is legally responsible for the child's welfare; or (5) a surrogate parent who has been appointed in accordance with 34 CFR §300.519 or section 639(a)(5) of the IDEA. Under 34 CFR §300.520(a), a State may provide that when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law), all rights accorded to parents under Part B of the IDEA transfer to the child. Therefore, if a student who has reached the age of majority under State law is exercising parental rights, that student has the right to use the IDEA's dispute resolution procedures, including mediation under 34 CFR §300.506, the State complaint procedures under 34 CFR §§300.151-300.153, the due process complaint and hearing procedures under 34 CFR §§300.507-300.516, and the procedures for expedited due process hearings in 34 CFR §§300.532-300.533.

[6] Under 34 CFR §300.33, the term "public agency" includes the SEA, LEAs, educational service agencies (ESAs), nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities.

[7] This Q&A document includes references to Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Regulations, *Analysis of Comments and Changes*, 71 Federal Register 46540, 46547-46753 (Aug. 14, 2006). This document will be cited throughout this Q&A as "71 FR" with the appropriate page number.

the child and must not have a personal or professional interest that conflicts with the person's objectivity. 34 CFR §300.506(c)(1).

---

**Question A-6:** What are the types of issues that can be the subject of mediation?

**Answer:** The mediation process offers an opportunity for parents and public agencies to resolve disputes about any matter under 34 CFR part 300, including matters arising prior to the filing of a due process complaint. 34 CFR §300.506(a). This includes matters regarding the identification, evaluation, or educational placement of a child with a disability, or the provision of a free appropriate public education (FAPE) to a child with a disability, as well as any other matters arising under 34 CFR part 300 that may not be the subject of a due process complaint. An example of a matter that cannot be the subject of a due process complaint but that can be the subject of mediation is a dispute regarding the alleged failure of a particular SEA or LEA employee to be highly qualified. 34 CFR §300.18(f); see also Question C-1 in *Questions and Answers on Highly Qualified Teachers Serving Children with Disabilities*, January 2007.

---

**Question A-7:** Under what circumstances does the IDEA require that mediation be made available to parents of parentally-placed private school children with disabilities[8]?

**Answer:** The Department provided the following pertinent explanation in Question L-1 in *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools*, April 2011:

> As provided in 34 CFR §300.140(b), a parent of a child enrolled by that parent in a private school has the right to file a due process complaint [and use the mediation procedures in 34 CFR §300.506] regarding the child find requirements in 34 CFR §300.131, including the requirements in 34 CFR §§300.300 through 300.311. The due process provisions in section 615 of the Act and 34 CFR §§300.504 through 300.519 of the regulations [which include the mediation procedures in 34 CFR §300.506], do not apply to issues regarding the provision of services to any particular parentally-placed private school child with disabilities whom an LEA has agreed to serve because there is no individual right to services for such children under the IDEA. 34 CFR §300.140(a).

[8] "Parentally-placed private school children with disabilities" means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in 34 CFR §300.13 or secondary school in 34 CFR §300.36, other than children with disabilities covered under 34 CFR §§300.145-300.147. 34 CFR §300.130.

> Disputes that arise about equitable services are, however, properly subject to the State complaint procedures in 34 CFR §§300.151 through 300.153 [described in Section B of this Q&A document]. As provided in 34 CFR §300.140(c), a parent may file a signed written complaint in accordance with the State complaint procedures alleging that an SEA or LEA has failed to meet the private school requirements, such as failure to properly conduct the consultation process.

Under the State complaint procedures, when a parent files a State complaint regarding the private school requirements or the child find requirements in 34 CFR §300.131, including the requirements in 34 CFR §§300.300-300.311, the SEA must give the parent an opportunity to voluntarily engage in mediation consistent with 34 CFR §300.506. 34 CFR §300.152(a)(3)(ii).

In addition, under 34 CFR §300.148 and Supreme Court case law, where FAPE is at issue, parents of a parentally-placed private school child with a disability may utilize the due process procedures, including mediation, if seeking reimbursement for the private school placement based on a denial of FAPE.

---

**Question A-8:** Under what circumstances do the Part B regulations prevent public agencies from using mediation?

**Answer:** The Part B regulations prohibit a public agency from using mediation to seek to override: (1) a parent's failure to respond to a request for, or refusal to consent to, the initial provision of special education and related services (34 CFR §300.300(b)(3)(i)); (2) a parent's revocation of consent for the continued provision of special education and related services to his or her child (34 CFR §300.300(b)(4)(ii));[9] or (3) a parent's refusal to consent, or failure to respond to a request to provide consent, to an initial evaluation or reevaluation of a child who is home schooled or parentally-placed in a private school at parental expense (34 CFR §300.300(d)(4)(i)). Similarly, if parental rights transfer to a student who has reached the age of majority under State law, the public agency also may not use mediation to resolve disputes with students in these three circumstances. 34 CFR §300.520.[10]

---

[9] Mediation, pursuant to 34 CFR §300.506(a), may be used to resolve any disputes under Part B of the Act and its implementing regulations before a parent revokes consent for the continued provision of special education and related services. However, for the same reasons that mediation is not allowed when a parent refuses to provide initial consent for services (i.e., to ensure that the parent's right to refuse consent for his or her child's receipt of special education and related services is meaningful), mediation is not appropriate once a parent revokes consent for the provision of special education and related services. 73 FR 73008, 73016 (Dec. 1, 2008).

[10] If a parent refuses consent to an initial evaluation or reevaluation of his or her child who is enrolled in a public school or is seeking to be enrolled in a public school, or if a parent of such a child fails to respond to a request to provide consent to an initial evaluation, the public agency may seek to engage in mediation with the parent if it believes that the child would benefit from the evaluation or reevaluation.

**Question A-9:** What are some similarities and differences between mediation and due process hearings?

**Answer:** The goal of mediation and due process hearings under the IDEA is the same – to achieve resolution of the disputed issues. Both processes generally involve the same parties – parents and public agencies – but as noted in Question A-4, States have the option of making mediation available to parties other than parents. The mediator, in the case of mediation, and the hearing officer, in the case of a due process hearing, must be a qualified and impartial individual. Aside from these similarities, there are important differences.

Due process hearing procedures are more formal, and generally the parent and the public agency may be represented by attorneys. The parties also may choose to be accompanied and advised at a due process hearing by an individual who has special knowledge or training with respect to the problems of children with disabilities. However, whether individuals may be represented by non-attorneys at due process hearings is determined by State law. 34 CFR §300.512(a)(1). In contrast, the IDEA is silent on the presence of lawyers or advocates at mediation. For more discussion of who may accompany a party to a mediation session, see Question A-12.

As noted in Question A-6, the issues that can be the subject of mediation are generally broader than the issues that can be raised in a due process complaint requesting a due process hearing.[11]

In mediation, the parties help set the ground rules and identify their potential remedies, and the process must be voluntary at every phase. In contrast, the due process procedures impose specific requirements on the parties and the failure to adhere to such requirements generally has negative consequences. 34 CFR §§300.507-300.508 (due process complaints) and 300.510 (resolution process).[12]

[11] Compare, 34 CFR §300.506(a) with 34 CFR §300.507(a).

[12] An LEA is required to convene a resolution meeting within 15 days of receiving notice of the parent's due process complaint and prior to the initiation of a due process hearing, except that the resolution meeting need not be held if the parties agree in writing to waive the meeting or agree to engage in mediation described in 34 CFR §300.506. The IDEA also provides for a 30-day resolution period to resolve the dispute that is the basis for the parent's due process complaint. (Shortened timelines apply to the resolution process when a parent files a due process complaint regarding a disciplinary matter to request an expedited due process hearing.) If the parties reach a resolution of their dispute through this process, it must be reflected in a legally binding written settlement agreement. 34 CFR §300.510. For more information on the resolution process, see Section D of this Q&A document. For more information on expedited due process hearings, see Section E of this Q&A document.

In mediation, the mediator acts as a facilitator and does not pass judgment on specific issues, but the parties may choose to execute a legally binding written agreement. In a due process hearing, the hearing officer is required to render a final decision that contains findings of fact and decisions that would generally include specific remedies. The hearing officer must render a decision in accordance with 34 CFR §300.513(a), including determining whether a child received FAPE.[13]

While mediation is less formal than a due process hearing, all discussions that occur in mediation, including the negotiation discussions, and discussions involving any settlement positions of parties in a mediation session, are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. 34 CFR §300.506(b)(8). The IDEA is silent as to whether the mediation agreement itself must be kept confidential. However, under 34 CFR §300.506(b)(6)(i), a legally binding mediation agreement must include a statement that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. Regardless of whether the parties enter into a legally binding agreement, all discussions that occurred during the mediation also must be kept confidential. 34 CFR §300.506(b)(8). In contrast, the parent has the right to have the due process hearing open to the public. 34 CFR §300.512(c)(2). Also, the public agency, after deleting any personally identifiable information, must transmit the due process hearing findings and decisions to the State advisory panel and make those findings and decisions available to the public. 34 CFR §§300.513(d) and 300.514(c).

---

**Question A-10:** How long does the mediation process take?

**Answer:** The IDEA does not specifically address the timing of the mediation process. However, mediation is intended to facilitate prompt resolution of disputes between parents and public agencies at the local level and decrease the use of more costly and divisive due process proceedings and civil litigation. 64 FR 12611 (March 12, 1999). Therefore, a State's procedures governing mediation must ensure that: (1) the mediation process is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the IDEA; and (2) each session in the mediation process is scheduled in a timely manner.
34 CFR §300.506(b)(1)(ii) and (5). The length of the mediation process depends on a number of factors, including the type and complexity of issues presented, the availability of the parties, and the willingness of the parties to

[13] The IDEA statute and regulations provide that the hearing officer can find that a child did not receive FAPE on substantive grounds and, under certain circumstances, based on procedural inadequacies. 34 CFR §300.513(a)(2). See also 71 FR 46707 (August 14, 2006).

cooperate. Also, the length of the mediation process will depend on the individual techniques used by the mediator. Unless the parties agree to an extension, the use of mediation may not affect the 30-day resolution period timeline or the 45-day due process hearing timeline established in 34 CFR §§300.510 and 300.515. Likewise, the use of mediation may not affect the 60-day State complaint resolution time limit established in 34 CFR §300.152(a) unless the parties agree to an extension. 34 CFR §300.152(b)(1)(ii).

---

**Question A-11:** Does the IDEA address where mediation sessions are held?

**Answer:** The IDEA provides that each session in the mediation process must be held in a location that is convenient to the parties to the dispute. 34 CFR §300.506(b)(5). OSEP encourages the parties to work together to determine a convenient location for a mediation session that is acceptable to both parties. If the parties are comfortable with the location of the mediation session, it is more likely that they will work cooperatively to achieve a resolution of their dispute.

---

**Question A-12:** Who may participate in, or attend, the mediation session? May parents or public agencies bring their attorneys to mediation sessions and, if so, under what circumstances?

**Answer:** The IDEA does not address who may accompany a party at the mediation session. Because successful mediation often requires that both parties understand and feel satisfied with the plan for conducting a mediation session, it is a best practice to discuss and disclose who, if anyone, will be accompanying the party at the mediation session prior to that session. Because mediation is voluntary on the part of the parties, either party has the right not to participate for any reason, including if the party objects to the person the other party wishes to bring to the mediation session. This could include a party's objection to the attendance of an attorney representing either the parent or the public agency. For example, if the parent wishes to bring an attorney to the mediation session and the LEA objects, the parent may choose not to participate.

---

**Question A-13:** May a child with a disability who is the subject of the mediation process attend the mediation session with his or her parent?

**Answer:** The IDEA does not address whether the child who is the subject of the mediation can attend the mediation session; therefore, a parent may choose to have his or her child present for all or part of the mediation session. The age and maturity of the child should be considered in determining the appropriateness of having the child attend the mediation with his or her parent. For some youth with disabilities, observing and even participating in

the mediation may be a self-empowering experience where they can learn to advocate for themselves. Also, if a State provides that all rights accorded to parents under the IDEA transfer to the student who has reached the age of majority consistent with 34 CFR §300.520, then the right to participate in mediation would also transfer to the student.

---

**Question A-14:** What options are available if a parent declines a public agency's request to engage in mediation?

**Answer:** As noted previously, the IDEA and its implementing regulations do not allow a public agency to require a parent to participate in mediation because mediation is voluntary. However, a public agency may establish procedures to offer parents and schools that choose not to use the mediation process an opportunity to meet, at a time and location convenient to the parents, with a disinterested third party: (1) who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under section 671 or 672 of the IDEA; and (2) who would explain the benefits of, and encourage the use of, the mediation process to the parents. 34 CFR §300.506(b)(2). Public agencies that choose to establish these procedures must make clear to parents and schools that they have the opportunity to participate in the meeting with the disinterested third party, but that their participation is voluntary. The disinterested third party would explain the benefits of mediation, including that it is voluntary, and if successful, could result in the resolution of the dispute without the need to use more formal, costly, and adversarial due process proceedings.

---

**Question A-15:** May a State use IDEA funds for recruitment and training of mediators?

**Answer:** Yes. Under 34 CFR §300.704(b)(3)(ii), some portion of the funds the SEA reserves for other State-level activities must be used to establish and implement the mediation process required by section 615(e) of the IDEA and 34 CFR §300.506, including providing for the costs of mediators and support personnel. This can also include the recruitment and training of mediators.

---

**Question A-16:** Who pays for the mediation process?

**Answer:** The IDEA provides that the State must bear the cost of the mediation process required under section 615(e) of the IDEA and 34 CFR §300.506, including the fee charged by the mediator and the costs of meetings described in 34 CFR §300.506(b)(2) to discuss the benefits of the mediation process. Therefore, States may not require their LEAs to use Part B funds to pay the costs of mediation. 71 FR 46624 (August 14, 2006). In addition, the IDEA does not allow States that choose to make mediation available to parties other

than parents or offer mediation on matters not addressed in the IDEA to use IDEA funds for those activities.

---

**Question A-17:** How is a mediator selected?

**Answer:** The success of mediation is closely related to the mediator's ability to obtain the trust of both parties and commitment to the process. 64 FR 12612 (March 12, 1999). One important way to establish this trust is the selection of a qualified and impartial mediator. To build trust and commitment in the process of selecting a mediator, the IDEA provides several mechanisms for selecting a mediator. The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations related to the provision of special education and related services.
34 CFR §300.506(b)(3)(i). The State must select a mediator from this list on a random, rotational, or some other impartial basis. 34 CFR §300.506(b)(3)(ii). The State's selection of mediators on an impartial basis would include permitting the parties involved in a dispute to agree on a mediator. 71 FR 46695 (August 14, 2006).

---

**Question A-18:** May more than one mediator be selected to conduct mediation under the IDEA?

**Answer:** No. The mediation process required under the IDEA specifies that the mediation is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. 34 CFR §300.506(b)(1)(iii). The use of a single mediator is important to ensure clear communication and accountability. 64 FR 12611-12612 (March 12, 1999). Therefore, it is impermissible for States to use a panel of mediators to resolve disputes between parents and public agencies involving matters arising under 34 CFR part 300.

---

**Question A-19:** May current LEA employees serve as mediators?

**Answer:** The IDEA provides that a mediator under 34 CFR §300.506 may not be an employee of the SEA or the LEA that is involved in the education or care of the child and must not have a personal or professional interest that conflicts with the person's objectivity. 34 CFR §300.506(c)(1). Therefore, it is impermissible under the IDEA for a current employee of an LEA that is involved in the education or care of the child to serve as a mediator for his or her own LEA. However, if an employee of a different LEA that is not involved in the education or care of the child has no personal or professional interest that would conflict with his or her objectivity and possesses the requisite qualifications, that individual can serve as a mediator in a dispute involving the parents and the LEA that their child attends. Notice of Proposed

Rulemaking Implementing the IDEA Amendments of 2004, 70 FR 35782, 35808 (Jun. 21, 2005).

---

**Question A-20:** Is it a conflict of interest if a mediator is paid by a State agency?

**Answer:** No. A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency solely because he or she is paid by the State agency to serve as a mediator. 34 CFR §300.506(c)(2).

---

**Question A-21:** Does the IDEA address what would constitute effective mediation techniques?

**Answer:** No. The IDEA requires that a mediation session be conducted by a qualified and impartial mediator who is knowledgeable in laws and regulations relating to the provision of special education and related services and is trained in effective mediation techniques. 34 CFR §300.506(b)(1)(iii) and (b)(3)(i). The IDEA requirement for the use of a qualified and impartial mediator trained in effective mediation techniques helps ensure that decisions about the effectiveness of specific techniques, such as the need for face-to-face negotiation or telephone communications are based upon the mediator's independent judgment and expertise. Because of the need to allow flexibility in the independent judgment and expertise of each mediator and the unique issues of each dispute, other than providing for the confidentiality of discussions that occur during mediation, the IDEA does not address the specific techniques or procedures that States may require their mediators to use. Whether formal training and certification for mediators are required is a decision left to each State, depending on State policy. 71 FR 46695 (August 14, 2006).

---

**Question A-22:** If the parties to the mediation process resolve their dispute, must the agreement reached by the parties be in writing?

**Answer:** Yes. If the parties resolve a dispute through the mediation process, the parties must execute a legally binding written agreement that sets forth that resolution and states that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. In order for the agreement to be legally binding, it must be in writing. The agreement must be signed by both the parent and a representative of the public agency who has the authority to bind the agency. 34 CFR §300.506(b)(6). It is important that the parties understand that the mediation agreement is legally binding and that it is enforceable in any State court of competent jurisdiction or in a district court of the United States or by the SEA, if applicable. 34 CFR §§300.506(b)(7) and 300.537. Parties are free to consult with others before entering into a mediation agreement.

**Question A-23:** Are discussions that occur in the mediation process automatically confidential or is the confidentiality of the mediation session a matter that must be mediated and documented as a part of the mediation agreement?

**Answer:** Under 34 CFR §300.506(b)(8), discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under 34 CFR part 300. This requirement is automatic and may not be altered or modified by parties to mediation conducted under 34 CFR §300.506. Further, this confidentiality requirement applies regardless of whether the parties resolve a dispute through the mediation process. If the parties resolve a dispute through the mediation process, they must execute a legally binding agreement that also includes a statement that all discussions that occurred during the mediation process will remain confidential. 34 CFR §300.506(b)(6)(i).

---

**Question A-24:** Must a written mediation agreement be kept confidential?

**Answer:** While discussions that occur during the mediation process must be confidential, neither the IDEA nor its implementing regulations specifically address whether the mediation agreement itself must remain confidential. However, the confidentiality of information provisions in the Part B regulations in 34 CFR §§300.611-300.626 and the Family Educational Rights and Privacy Act (FERPA), and its implementing regulations in 34 CFR part 99 would apply. Further, there is nothing in the IDEA or its implementing regulations that would prohibit the parties from agreeing voluntarily to include in their mediation agreement a provision that limits disclosure of the mediation agreement, in whole or in part, to third parties. Also, there is nothing in the IDEA that would prohibit the parties from agreeing to permit the agreement to be released to the public.

---

**Question A-25:** Does the IDEA allow discussions that occur during the mediation process to be disclosed during the resolution of a State complaint?

**Answer:** No. As noted above, the IDEA requires that discussions that occur during the mediation process must be confidential. 34 CFR §300.506(b)(8). Similarly, if the parties execute a written agreement as a result of mediation, that agreement must include a statement that all discussions that occurred during the mediation process must remain confidential. 34 CFR §300.506(b)(6)(i). Neither the IDEA nor its implementing regulations create exceptions to these confidentiality requirements for discussions that occurred during the mediation process when the State resolves a State complaint pursuant to 34 CFR §§300.151-300.153. Maintaining the confidentiality of mediation

discussions during subsequent State complaint resolution activities is essential to protect the integrity of both processes.

---

**Question A-26:** May parties to the mediation process be required to sign a confidentiality pledge or agreement prior to, or as a precondition, to the commencement of the mediation process?

**Answer:** No. In the Notice of Proposed Rulemaking implementing the IDEA Amendments of 2004, the Department included a provision that would have required parties to a mediation to sign a confidentiality pledge, without regard to whether the mediation ultimately resolved the dispute. 70 FR 35870 (June 21, 2005). This proposed provision was based on Note 208 of Conf. Rpt. (Conference Report) No. 108-779, p. 216 (2004).[14] However, the Department decided to remove this proposed provision when the final Part B regulations were published in 2006 based on the statutory requirement in section 615(e)(2)(G) that discussions that occur during the mediation process must remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. 71 FR 46696 (August 14, 2006).

Additionally, if the parties resolve a dispute through the mediation process, as noted above, 34 CFR §300.506(b)(6)(i) requires that the legally binding written agreement contain a statement that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. 34 CFR §300.506(b)(6)(i). This is so even if the parties do not enter into a mediation agreement. However, nothing in these regulations is intended to prevent States from allowing parties to sign a confidentiality pledge to ensure that discussions during the mediation process remain confidential, irrespective of whether the mediation results in a legally binding written agreement resolving the dispute. 71 FR 46696 (August 14, 2006).

---

**Question A-27:** May a State use nonjudicial mechanisms (e.g., State complaint procedures) to resolve allegations that the public agency did not implement a mediation agreement?

**Answer:** Yes, as long as the use of those mechanisms is voluntary and does not operate to deny or delay the parties' right to seek judicial enforcement of mediation agreements. The IDEA provides that parties who resolve a dispute through the mediation process under 34 CFR §300.506 must execute a legally binding written agreement that sets forth that resolution. 34 CFR §300.506(b)(6). A written, signed mediation agreement is enforceable in any State court of

[14] Conference Report refers to the joint explanatory statement of the Committee of Conference. This report accompanied HR 1350, the bill to reauthorize the IDEA in 2004.

competent jurisdiction or in a district court of the United States. 34 CFR §300.506(b)(7). However, notwithstanding the provisions in 34 CFR §§300.506(b)(7) addressing judicial enforcement of mediation agreements and 300.510(d)(2), addressing judicial enforcement of resolution agreements, nothing in part 300 would prevent the SEA from using other mechanisms to seek enforcement of those agreements, provided that the use of the State's mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court of competent jurisdiction or in a district court of the United States. 34 CFR §300.537. Therefore, in addition to judicial enforcement of mediation and resolution agreements, 34 CFR §300.537 gives States the flexibility to allow enforcement of those agreements through other State mechanisms such as their State complaint resolution procedures in 34 CFR §§300.151-300.153. 71 FR 46604-46605 and 71 FR 46703 (August 14, 2006).

---

**Question A-28:** May a parent file a State complaint on matters that were not addressed in, or that arose after the time covered by, the mediation agreement?

**Answer:** Yes. If the mediation agreement covers a specific time period and that time period has passed, the parent may file a State complaint if the issues that were the subject of the mediation agreement recur or if new issues arise. Also, if there are issues that were not addressed by the mediation agreement, the parent may file a State complaint to seek to resolve those issues. However, once both parties have executed a legally binding mediation agreement, the parties are bound by that agreement and a parent cannot seek to change the terms of that agreement by filing a State complaint to alter that agreement.

---

Key regulatory references related to the mediation process, as cited above, can be found at http://idea.ed.gov/explore/home, and include the following:

- 34 CFR §300.140
- 34 CFR §§300.151-300.153
- 34 CFR §300.506
- 34 CFR §300.520
- 34 CFR §300.537
- 34 CFR §§300.611-300.626

The Q&A documents cited in this section can be found at:

- *Questions and Answers on Highly Qualified Teachers Serving Children with Disabilities*, January 2007: http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C2%2C
- *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools*, April 2011: http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C1%2C

## *B. State Complaint Procedures*

**Authority:** The requirements for State complaint procedures are found in the regulations at 34 CFR §§300.151-300.153.

---

**Question B-1:** Why are States required to have complaint procedures when the IDEA statute does not contain those procedures?

**Answer:** States have been required to establish and implement their own State complaint procedures, separate from their due process procedures, since 1977, when the initial regulations implementing Part B of the EHA were published (45 CFR §121a.602). The EHA regulations were moved to part 76 of the Education Department General Administrative Regulations (EDGAR) in the early 1980s and were returned to the Part B of the IDEA regulations in 1992 when the Department decided to move the regulations out of EDGAR and place them in program regulations for the major formula grant programs. 71 FR 46600 (August 14, 2006). In responding to public comments questioning the basis for the State complaint provisions in 34 CFR §§300.151-300.153, the Department provided the following explanation when the final Part B regulations were published:

> Although Congress did not specifically detail a State complaint process in the Act, we believe that the State complaint process is fully supported by the Act and necessary for the proper implementation of the Act and these regulations. We believe a strong State complaint system provides parents and other individuals an opportunity to resolve disputes early without having to file a due process complaint and without having to go to a due process hearing. 71 FR 46600 (August 14, 2006).

In addition to the regulations addressing State complaint procedures, there are also a number of statutory provisions in the IDEA that recognize the State complaint process.[15]

Accordingly, through its Part B State complaint procedures, each State has a powerful tool to address noncompliance with Part B of the IDEA and its implementing regulations in a manner that both supports and protects the

[15] The State complaint procedures are referred to in the following three sections of the IDEA: section 611(e)(2)(B)(i), requiring States to expend a portion of Part B funds that they can use for State-level activities for complaint investigation; section 612(a)(14)(E), which provides that a parent is not prevented from filing a State complaint under part 300 with the SEA about staff qualifications; and section 615(f)(3)(F), clarifying that nothing in the Act's due process provisions should be construed to affect the right of a parent to file a complaint with the SEA.

interests of children with disabilities and their parents and facilitates ongoing compliance by the State and its public agencies with the IDEA and its implementing regulations. 71 FR 46601 (August 14, 2006).

---

**Question B-2:** What are some differences between a State complaint and a due process complaint?

**Answer:** Some differences include who can file each type of complaint, subject matter, timing, procedures, and appeal processes. More parties are eligible to file a State complaint than a due process complaint. As explained in Question B-3, a State complaint may be filed by an organization or individual, including one from another State. In contrast, only a parent[16] or a public agency[17] may file a due process complaint.[18] Therefore, while a parent has the option of filing a State complaint or a due process complaint to request a due process hearing, an organization or individual, other than a child's parent may not file a due process complaint to request a due process hearing.

Another difference is the subject matter of each type of complaint. A State complaint must allege that a public agency has violated a requirement of Part B of the IDEA or the Part B regulations, but a due process complaint is available for matters regarding the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child. Therefore, while a matter that could be the subject of a due process complaint could also be the subject of a State complaint, the reverse is not always true.

Next, the time period within which each type of complaint can be filed is not the same. A State complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with 34 CFR §300.151; although States have the option of accepting complaints alleging a violation that occurred within a longer time period (see Question B-19). In contrast, a due process complaint must allege a violation that occurred not more than two years before the parent or public agency knew or should have known about the alleged action that forms the basis for the due process complaint, or, if the State has an explicit time limitation, in the time allowed by State law. 34 CFR §300.507(a)(2). The regulations provide explicit exceptions to the two-year or State-established timeline. 34 CFR §300.511(f). See Question C-5 of this Q&A document for a description of these exceptions.

---

[16] See Footnote 5 in Section A of this Q&A document for the definition of the term "parent" and for information about the transfer of rights accorded to parents under Part B of the IDEA to a student who has reached the age of majority under State law.

[17] See Footnote 6 in Section A of this Q&A document for the definition of the term "public agency."

[18] Compare, 34 CFR §300.153(a) with 34 CFR §300.507(a)(1).

Different procedures apply to written decisions for State complaints and due process complaints.[19] For State complaints, the SEA must issue a written decision to the complainant that addresses each allegation in the complaint within 60 days of the date that the complaint was filed, except that certain specific extensions are allowable as described in Question B-21. In contrast, if a parent files a due process complaint to request a due process hearing and the due process hearing occurs, then a hearing decision must be issued not later than 45 days after the expiration of the resolution period described in 34 CFR §300.510. Note though that a hearing officer may grant a specific extension of the 45-day timeline at the request of either party. See Sections C and D of this Q&A document.

The regulations are silent as to whether a decision on a State complaint may be appealed, but see Question B-32 for a discussion of how State appeal and reconsideration procedures can be implemented consistent with Part B. Also, as described in the response to Question B-34, the Part B regulations do not provide for Secretarial review of a final decision on a State complaint. In contrast, a decision reached in a due process hearing is final, unless a party aggrieved by the decision appeals by requesting a State-level review, if applicable, or by bringing a civil action in an appropriate State or Federal court. 34 CFR §§300.514 and 300.516.

---

**Question B-3:** Who may file a State complaint?

**Answer:** Any organization or individual, including one from another State, may file a signed written State complaint that meets the requirements in 34 CFR §300.153. 34 CFR §300.151(a).

---

**Question B-4:** Are there any mechanisms that an SEA must provide to assist parents and other parties in filing a State complaint?

**Answer:** Yes. Under 34 CFR §300.509, each SEA must develop model forms to assist parents and other parties in filing a State complaint; however, the SEA or LEA may not require the use of the model forms. Parents and other parties may use the appropriate model form, or another form or document, so long as the form or document that is used meets the content requirements in 34 CFR §300.153 for filing a State complaint. If the SEA's model form includes content not required by 34 CFR §300.153, the form must identify that content and specify that it is optional.

[19] Compare, 34 CFR §300.152(a) with 34 CFR §§300.507-300.508.

**Question B-5:** If a parent wishes to challenge a public agency's eligibility determination, may a parent file a State complaint?

**Answer:** Yes. The Department's long-standing position is that an SEA may not refuse to resolve a parent's State complaint challenging a public agency's eligibility determination through its complaint resolution procedures even though the complaint concerns a matter that could also be the subject of a due process complaint to request a due process hearing.

---

**Question B-6:** How should an SEA resolve a State complaint challenging a public agency's eligibility determination?

**Answer**: In resolving a State complaint challenging a public agency's eligibility determination, an SEA should determine not only whether the public agency has followed the required Part B procedures to reach its determination, but also whether the public agency has reached a determination consistent with Part B requirements governing the evaluation and eligibility determination in 34 CFR §§300.304-300.311, in light of the individual child's abilities and needs. The SEA must determine whether the child was determined eligible based on evidence that he or she met the definition of "child with a disability" under 34 CFR §300.8 and fell within the age ranges specified at 34 CFR §§300.101 and 300.102. To do so, the SEA may need to review the evaluation data in the child's record or any additional data provided by the parties to the complaint. In addition, the SEA may need to review the explanation included in the public agency's prior written notice to the parents under 34 CFR §300.503 explaining why the agency made the challenged eligibility determination (and/or refused to make an alternative determination requested by the parents or others). If necessary, the SEA may need to interview appropriate individuals to determine: (1) whether the public agency followed procedures and applied standards that are consistent with State standards, including the requirements of Part B; and (2) whether the public agency's eligibility determination is consistent with those standards and supported by the evaluation and other data included in the child's record or the information provided by the parties to the complaint. The SEA may find that the public agency has complied with Part B requirements if the public agency has followed required procedures, applied required standards, and reached a determination that is reasonably supported by the child-specific data and is consistent with Part B.

If the SEA determines that the public agency's eligibility determination is not supported by the child-specific facts, the SEA can order the public agency, on a case-by-case basis, to reconsider the eligibility determination in light of those facts. In addition, a parent always has the right to challenge the public agency's eligibility determination by filing a due process complaint to request

a due process hearing and may also engage in mediation with the public agency to seek to resolve the dispute.

---

**Question B-7:** If a parent wishes to challenge a public agency's decision regarding the provision or denial of FAPE to a child with a disability, may a parent file a State complaint?

**Answer:** Yes. As is true for State complaints challenging a public agency's eligibility determination, the Department's long-standing position is that an SEA may not refuse to resolve a State complaint alleging a denial of FAPE. This is true even if the SEA believes that the parent should file a due process complaint against the LEA or that the due process hearing process is a more appropriate mechanism to resolve such disputes. If a parent believes that the program offered or provided to his or her child with a disability does not constitute FAPE and files a State complaint instead of a due process complaint, the SEA must resolve the State complaint. This responsibility includes resolving a State complaint by a parent, who has unilaterally placed his or her child in a private school at her or her own expense, alleging a denial of FAPE.

---

**Question B-8:** How should an SEA resolve a State complaint challenging a public agency's decision regarding the provision or denial of FAPE to a child with a disability?

**Answer:** In resolving a State complaint challenging whether a public agency's decision regarding the provision or denial of FAPE to a child is correct, an SEA may need to determine not only whether the public agency has followed the required Part B procedures to reach its determination, but also whether the public agency has properly addressed the individual child's abilities and needs. Thus, the SEA would need to review any data provided by the parties to the complaint and the child's record, including evaluation data and any explanations included in the public agency's prior written notice to the parents under 34 CFR §300.503 as to why the public agency made its decision regarding the child's educational program or services (and/or refused to make an alternative decision requested by the parents or others). If necessary, the SEA may need to interview appropriate individuals to determine: (1) whether the agency followed procedures and applied standards that are consistent with State standards, including the requirements of Part B; and (2) whether the determination made by the public agency is consistent with those standards and supported by the data on the individual child's abilities and needs. The SEA may find that the public agency has complied with Part B requirements if the evidence clearly demonstrates that the agency has followed required procedures, applied required standards, and reached a determination that is reasonably supported by the child-specific data. 71 FR 46601 (August 14, 2006).

If the SEA finds a violation of FAPE for the child, it must address the violation. This includes, as appropriate, ordering an IEP Team to reconvene to develop a program that ensures the provision of FAPE for that child or ordering compensatory services. See Question B-10 for remedies. In addition, a parent alleging a denial of FAPE has the right to challenge the IEP Team's decision by filing a due process complaint to request a due process hearing and may also engage in mediation with the public agency to seek to resolve the dispute.

---

**Question B-9:** May the State complaint procedures, including the remedies outlined in 34 CFR §300.151(b), be used to address the problems of a group of children, i.e., a complaint alleging systemic noncompliance?

**Answer:** Yes. An SEA is required to resolve any complaint that meets the requirements of 34 CFR §300.153. This includes a complaint alleging that a public agency has not provided FAPE to an individual child or a group of children in accordance with Part B. As noted in the response to Question B-1, State complaint procedures provide a powerful tool to enable a State to fulfill its general supervisory responsibility to monitor implementation of Part B requirements in the State. This responsibility applies to the monitoring of its public agencies' compliance with Part B with respect to both systemic and child-specific issues. 34 CFR §§300.149 and 300.600(a).

A State complaint alleging systemic noncompliance could be one that alleges that a public agency has a policy, procedure, or practice applicable to a group of children that is inconsistent with Part B or the Part B regulations. An example of a complaint alleging systemic noncompliance is a complaint alleging that an LEA has a policy, procedure, or practice that would limit extended school year (ESY) services to children in particular disability categories or the type, amount, or duration of services that can be provided as ESY services.

If the complaint names certain children and alleges that the same violations apply to a class, category, or similarly situated children, the SEA must review all relevant information to resolve the complaint, but would not need to examine additional children if no violations are identified in the policies, procedures, or practices for the named children. However, if the SEA identifies violations for any of the named children, the SEA's complaint resolution must include measures to ensure correction of the violations for all children affected by the alleged systemic noncompliance described in the complaint. Additionally, the SEA would need to examine the policies, procedures, and practices that may be causing the violations and the SEA's written decision on the complaint must contain procedures for effective implementation of that decision, including corrective actions to achieve compliance. 34 CFR §§300.152(b)(2)(iii), 300.149(a)(2)(ii), and 300.600(e).

**Question B-10:** If there is a finding in a State complaint that a child or group of children has been denied FAPE, what are the remedies?

**Answer:** In resolving a complaint in which there is a finding that a public agency has not provided appropriate services, whether to an individual child or a group of children, an SEA, through its general supervisory authority under Part B, is required to address: (1) the failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and (2) appropriate future provision of services for all children with disabilities. 34 CFR §300.151(b). Thus, an SEA, pursuant to its general supervisory authority, has broad flexibility to determine appropriate remedies to address the denial of appropriate services to an individual child or group of children.

**Question B-11:** How does an SEA resolve a complaint when an organization or individual, other than a child's parent, files a State complaint regarding a specific child?

**Answer:** An SEA is required to resolve any complaint that meets the requirements of 34 CFR §300.153 filed by an organization or individual, including one from another State. This includes a signed written complaint alleging that a public agency has violated a requirement of Part B of the IDEA or the Part B regulations regarding a particular child with a disability, regardless of whether the State complaint has been filed by the child's parent or by an organization or individual other than the child's parent. Thus, in resolving such a complaint, the SEA would be required to follow the minimum State complaint procedures in 34 CFR §300.152 as it would for any other State complaint that alleges that a public agency has violated a requirement of Part B of the IDEA or the Part B regulations.

If a complaint is filed by an organization or individual other than the parent, parental consent must be obtained before an SEA may provide personally identifiable information about a child to a non-parent complainant as part of the complaint decision. 34 CFR §§99.30 and 300.622.

If parental consent is not obtained, any personally identifiable information about the child who is the subject of the complaint must be redacted from the SEA's written decision on the complaint. Because the complaint resolution would likely involve the child's personally identifiable information, it may not be possible for the SEA's decision to be issued to a non-parent complainant. The SEA must make this determination case by case, but should not withhold relevant nonpersonally identifiable information from the complainant regarding the results of the SEA's complaint resolution. Moreover, even if the SEA would be unable to issue a written decision to the complainant because of its personally identifiable nature, the SEA still must ensure that it resolves the complaint, issues a written decision that addresses each allegation in the

complaint, and ensures timely implementation of its written decision, including, if appropriate, corrective actions to achieve compliance and remedies for the denial of appropriate services. 34 CFR §§300.152(b)(2) and 300.151(b).

---

**Question B-12:** How does an SEA resolve a complaint against itself?

**Answer:** An SEA must resolve a complaint alleging that it has violated a requirement of Part B or the Part B regulations just as it must resolve any other signed written complaint that meets the requirements in 34 CFR §300.153. Under 34 CFR §300.33, the term "public agency" includes the SEA. Therefore, an SEA must resolve a complaint alleging that the SEA (a public agency) has violated a requirement of Part B or the Part B regulations.

In resolving a complaint filed against the SEA, an SEA may either appoint its own personnel or may make arrangements with an outside party to resolve the complaint. Regardless of whether the SEA chooses to resolve the complaint on its own or chooses to use an outside party, the SEA must ensure that all of the procedures in 34 CFR §§300.151-300.153 are followed. Specifically, an independent on-site investigation must be conducted, if necessary, consistent with 34 CFR §300.152(a)(1) and the SEA must take appropriate steps to ensure this occurs. Additionally, the SEA must ensure that all relevant information is reviewed and that an independent determination is made as to whether the public agency (in this case the SEA) has violated a requirement of Part B or the Part B regulations with respect to the complaint. 34 CFR §300.152(a)(4).

The SEA also must ensure that it or an outside party, whichever resolves the complaint, considers all available remedies in the case of a denial of appropriate services consistent with 34 CFR §300.151(b). Regardless of whether the complaint is resolved by the SEA or by an outside party that the SEA designates to resolve the complaint, the SEA must comply with all corrective actions, including remedies, set out in the final decision. 71 FR 46602 (August 14, 2006).

---

**Question B-13:** May States establish procedures permitting a State complaint to be filed electronically?

**Answer:** Yes. Under 34 CFR §300.153(a), a complaint must be signed and written. This regulation does not address whether States can accept State complaints filed electronically with digital or electronic signatures. Because the IDEA does not prohibit this practice, States considering accepting, or choosing to accept, electronic submissions of State complaints with electronic signatures would need to ensure that there are appropriate safeguards to protect the

integrity of the process. 71 FR 46629 (August 14, 2006) (regarding whether States can accept electronic parental consent).

In developing the appropriate safeguards, States should consider that the Department has addressed criteria for accepting electronic signatures to satisfy the signed written consent requirements in the FERPA regulations in 34 CFR part 99. Under 34 CFR §99.30(d), "signed and dated written consent" may include a record and signature in electronic form that identifies and authenticates a particular person as the source of the consent and indicates such person's approval of the information contained in the electronic consent.

Applying these criteria to electronic complaint submissions, it would be reasonable for States that either are considering accepting, or have chosen to accept, electronic filings of Part B State complaints with electronic signatures to ensure that their process includes safeguards sufficient to identify or authenticate the complainant and indicate that the complainant approves of the information in the complaint. In other words, these safeguards should be sufficient to ensure that an organization or individual submitting a complaint electronically understands that the complaint has the same effect as if it were filed in writing. States would also need to ensure that the same confidentiality requirements that apply to signed written State complaints apply to State complaints filed electronically. 34 CFR §§300.611-300.626. States that are considering or have chosen to accept State complaints filed electronically with electronic signatures also should consult any relevant State laws governing electronic transactions.

---

**Question B-14:** Must States have procedures for tracking when State complaints are received, including State complaints filed electronically, if applicable?

**Answer:** Yes. Each SEA must include in its minimum State complaint procedures a time limit of 60 days after the date that the complaint is filed to resolve the complaint. 34 CFR §300.152(a). This includes all signed written complaints, including complaints filed electronically, if applicable. The Department interprets this requirement to mean that States must ensure that the 60-day[20] time limit for complaint resolution begins on the date that a complaint is received. While a State has some discretion in determining when a complaint is considered received, the SEA must ensure that its procedures allow for the timely resolution of complaints and are uniformly applied, consistent with 34 CFR §300.152(a) and (b). For example, if a State complaint is filed electronically on a day that is not considered a business day (e.g., the weekend), the State could consider the complaint received on the date the complaint is filed or on the next business day.

[20] Under 34 CFR §300.11(a), "[d]ay means calendar day unless otherwise indicated as business day or school day."

Under 34 CFR §300.151(a)(2), the State must adopt procedures for widely disseminating to parents and other interested individuals, including parent training and information centers, community parent resource centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State complaint resolution procedures under 34 CFR §§300.151-300.153. These must include criteria the State uses for determining when the State considers a State complaint to be received.

Likewise, information about filing and timelines for resolving State complaints must also be included in the explanation of State complaint procedures in the procedural safeguards notice to parents in accordance with 34 CFR §300.504(c)(5). The procedural safeguards notice must be provided to parents at least one time a school year, upon receipt of the first State complaint in a school year, and in the other circumstances specified in 34 CFR §300.504(a).

---

**Question B-15:** What is an SEA's responsibility to resolve a complaint if the complaint submitted to the SEA does not include all of the content required in 34 CFR §300.153?

**Answer:** The regulations do not specifically address an SEA's responsibility in this situation. Under 34 CFR §300.153, a complaint must include a statement that a public agency has violated a requirement of Part B of the Act or the Part B regulations; the facts on which the statement is based; and the signature and contact information for the complainant. If the complaint alleges a violation with respect to a specific child, the complaint also must include the name and address of the residence of the child; the name of the school the child is attending; in the case of a homeless child or youth, available contact information for the child and the name of the school the child is attending; a description of the problem of the child, including facts relating to the problem; and a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. When an SEA receives a complaint that is not signed or does not include contact information, or any other information required in 34 CFR §300.153(b), the SEA may choose to dismiss the complaint. 71 FR 46606 (August 14, 2006). In general, a State complaint may not be dismissed for not including a proposed resolution of the problem unless an SEA can clearly demonstrate that the resolution is known to the complaining party at the time the complaint is filed.

In general, an SEA should adopt proper notice procedures for such situations. For example, an SEA could provide notice indicating that the complaint will be dismissed for not meeting the content requirements or that the complaint will not be resolved and the time limit not commence until the missing content is provided. The SEA could also include this information in its written procedures for resolving State complaints pursuant to 34 CFR §300.151(a).

To ensure that a State's complaint resolution procedures are not inconsistent with Part B, in general, an SEA may not adopt procedures that limit or diminish the parent's or other complainant's ability to present a State complaint and obtain timely resolution of the issues presented.

---

**Question B-16:** May an SEA dismiss a complaint alleging systemic noncompliance because the complainant did not include a proposed resolution of the problem?

**Answer:** No. Under 34 CFR §300.153(b)(4)(v), the requirement for the complaint to include a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed applies only to complaints alleging violations with respect to a specific child.

---

**Question B-17:** What is an SEA's responsibility to resolve a complaint if the complainant does not provide a copy of the complaint to the LEA or public agency serving the child at the same time the complaint is filed with the SEA?

**Answer:** Under 34 CFR §300.153(d), the complainant must provide a copy of the complaint to the LEA or public agency serving the child at the same time the complaint is filed with the SEA. The regulations do not specifically address a situation where the complainant only provides the complaint to the SEA and does not forward it to the LEA or public agency serving the child. An SEA should include the actions that will be taken under these circumstances in its complaint procedures established under 34 CFR §300.151(a) and provide proper notice of its procedures. An SEA's complaint procedures should address how the complainant's failure to provide the required copy to the LEA or public agency serving the child will affect the initiation of the complaint resolution and/or the time limit for completing the complaint resolution.

For example, an SEA could adopt procedures that include advising the complainant in writing that the complaint resolution will not proceed and the 60-day time limit will not begin until the complainant provides the LEA or public agency serving the child with a copy of the complaint as required by the regulations. 71 FR 46606 (August 14, 2006). As an additional protection for parents, consistent with 34 CFR §300.199, we encourage States to adopt procedures that ensure that the SEA provides a copy of the complaint to the LEA or public agency serving the child if the complainant does not do so.

To ensure that a State's complaint resolution procedures are not inconsistent with Part B, in general, an SEA may not adopt procedures that limit or diminish the parent's or other complainant's ability to present a State complaint and obtain timely resolution of the issues presented.

**Question B-18:** May a complaint be filed with an SEA over an alleged violation that occurred more than one year prior to the date of the complaint?

**Answer:** Prior to October 13, 2006, (the effective date of the August 14, 2006, Part B regulations), States were required to accept complaints that alleged violations that occurred not more than one year prior to the date that the complaint was received, unless a longer period of time was reasonable because the violation was continuing or the complainant was requesting compensatory services for a violation that occurred not more than three years prior to the date that the complaint was received. 64 FR 12465 (March 12, 1999). This provision was removed in the 2006 Part B regulations. Under 34 CFR §300.153(c), a complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received. This requirement applies even if the alleged violation is continuing or if the complainant is requesting compensatory services. However, as described in Question B-19, a State may choose to accept and resolve complaints alleging violations that occurred more than one year prior to the SEA's receipt of the complaint as an additional protection for parents. 71 FR 46606 (August 14, 2006).

---

**Question B-19:** Does an SEA have the option to accept and resolve complaints alleging violations of the IDEA that occurred more than one year prior to the SEA's receipt of the complaint? What is the SEA's responsibility if such a procedure is permitted?

**Answer:** As with other procedural protections, a State may elect to provide more protections for children with disabilities and their parents than those specifically required by the IDEA, provided that the State procedure is not inconsistent with the IDEA. Therefore, an SEA may adopt a policy or procedure to accept and resolve complaints regarding alleged violations that occurred outside the one-year timeline in 34 CFR §300.153(c). In general, such a procedure would be treated as an additional protection for children with disabilities and their parents and not inconsistent with Part B. 71 FR 46606 (August 14, 2006).

Pursuant to 34 CFR §300.199(a)(2), the State must identify in writing to LEAs located in the State and the Secretary of Education any rule, regulation, or policy as a State-imposed requirement that is not required by Part B of the IDEA and Federal regulations. Stakeholders, including parents, parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, must be informed of the State's complaint resolution procedures pursuant to 34 CFR §300.151(a)(2). Therefore, if an SEA adopts a policy or procedure to accept and resolve complaints alleging violations that occurred outside of the one-year timeline, stakeholders must be informed of the policy or procedure through the State's complaint procedures so that they will be able to make

informed decisions about how and when they may use the State complaint procedures. Additionally, a public agency's notice of procedural safeguards, which must be given to parents one time a year and upon receipt of the first State complaint under 34 CFR §§300.151-300.153 in a school year, must include a full explanation of all of the procedural safeguards available to parents. This notice must include an explanation of the opportunity to present and resolve complaints through the State complaint procedures, including, among other information, the time period in which a parent may file a State complaint. 34 CFR §300.504(c)(5)(i).

---

**Question B-20:** Must an SEA conduct an independent on-site investigation for every complaint filed?

**Answer:** No. An SEA is required to conduct an independent on-site investigation only if it determines that such an investigation is necessary. 34 CFR §300.152(a)(1). The standards to be used in determining whether to conduct an on-site investigation are left to each State. If the SEA determines that there is no need to conduct an independent on-site investigation, the SEA must comply with all other applicable requirements in 34 CFR §300.152(a) and (b) in resolving the complaint.

---

**Question B-21:** When can the SEA extend the 60-day time limit for resolution of a State complaint? Can OSEP identify examples of situations when States have not been permitted to extend the 60-day complaint resolution time limit due to exceptional circumstances?

**Answer:** The regulations specify two allowable reasons for extending the 60-day time limit for complaint resolution. Under 34 CFR §300.152(b)(1), the SEA may extend this time limit only if: (1) exceptional circumstances exist with respect to a particular complaint; or (2) the parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation or other alternative means of dispute resolution, if available in the State. States need to determine case by case whether it is appropriate to extend the 60-day resolution time limit for a particular complaint due to exceptional circumstances.

OSEP has found that the following do not constitute exceptional circumstances that would warrant an extension of the 60-day time limit: State staff shortages or heavy caseloads; school vacations and breaks; the use of mediation or alternative dispute resolution without agreement by the parent (or individual or organization under State procedures) and the public agency to extend the 60-day time limit.

**Question B-22:** Must an SEA make mediation available when a State complaint is filed?

**Answer:** Under 34 CFR §300.152(a)(3)(ii), the SEA must provide an opportunity for a parent who has filed a State complaint and the public agency to voluntarily engage in mediation consistent with 34 CFR §300.506. This should provide a potential way of promptly resolving disputes between parents and public agencies at the local level. Resolving a complaint through mediation could also prove to be less costly if it avoids the need for the SEA to resolve the complaint, particularly if the SEA were to determine that an on-site investigation would be necessary. Ultimately, children with disabilities will be the beneficiaries of a local resolution because disputes about their educational programs can be resolved in a more timely manner. 71 FR 46603 (August 14, 2006).

While the IDEA does not require that mediation under 34 CFR §300.506 be made available to parties other than parents, there is nothing in the IDEA or its implementing regulations that would prevent States from offering voluntary mediation, or other alternative means of dispute resolution, if available in the State, to parties other than parents. 71 FR 46603-46604 (August 14, 2006). This matter is also discussed in Question A-4 of this Q&A document. An SEA may not require, but may request, that mediation (under 34 CFR §300.506) or other forms of alternative dispute resolution made available in the State take place before its complaint resolution.

---

**Question B-23:** What are the procedures related to an extension of the time limit for resolving a State complaint when the parties are engaged in mediation?

**Answer:** Under 34 CFR §300.152(b)(1)(ii), the 60-day time limit for complaint resolution may be extended if the parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to them under State procedures) and the public agency involved agree to extend the time to engage in mediation under 34 CFR §300.152(a)(3)(ii), or to engage in other alternative means of dispute resolution, if available in the State. The SEA may not treat mediation, in and of itself, as an exceptional circumstance under 34 CFR §300.152(b)(1)(i) that would warrant an extension of the time limit for complaint resolution. Rather, the parties engaged in mediation or other alternative means of dispute resolution, if available in the State, must agree to extend the time limit.

If the parties involved agree to engage in mediation once the State complaint is filed but do not agree to the extension of the complaint resolution time limit and the mediation is not successful in resolving the dispute, the State must ensure that the complaint is resolved within 60 days after the complaint was filed, as specified in 34 CFR §300.152(a). At any time that either party withdraws from mediation or other alternative means of dispute resolution, or

withdraws agreement to the extension of the time limit, the extension of the time limit for complaint resolution would end. 71 FR 46604 (August 14, 2006).

---

**Question B-24:** If the complainant is a party other than a parent, may the parties use the mediation process to attempt to resolve the issues in the State complaint?

**Answer:** Under 34 CFR §300.152(a)(3)(ii), an SEA is required to offer the parent and the public agency the opportunity to voluntarily engage in mediation to resolve the issues in a State complaint when the parent has filed a State complaint. The regulations do not require an SEA to provide an opportunity for mediation when an organization or individual other than the child's parent files a State complaint. However, the Department encourages SEAs and their public agencies to consider alternative means of resolving disputes between public agencies and organizations or other individuals, at the local level, consistent with State law and administrative procedures. It is up to each State, however, to determine whether non-parents can use mediation or other alternative means of dispute resolution. 71 FR 46604 (August 14, 2006).

---

**Question B-25:** Can an SEA dismiss allegations raised in a State complaint that were addressed in a previous settlement agreement resulting from mediation or the resolution process?

**Answer:** If a State complaint alleges violations specific to the child who is the subject of a prior settlement agreement resulting from mediation or the resolution process, the SEA may determine that the settlement agreement is binding on the parties as to those issues and inform the complainant to that effect. However, if the State complaint alleges systemic noncompliance or the State has reason to believe that the violations are systemic, it must resolve the allegations through its complaint resolution procedures. If the State finds systemic violations, it must provide for appropriate remedies for all students covered in the complaint, which could include prescribing in its complaint decision remedies for the denial of appropriate services, including corrective actions to address both past violations and future compliance.
34 CFR §§300.151(b) and 300.152(b)(2)(iii).

---

**Question B-26:** Can an issue that is the subject of a State complaint also be the subject of a due process complaint requesting a due process hearing?

**Answer:** Yes. An issue in a State complaint can also be the subject of a due process complaint requesting a due process hearing, as long as the issue relates to a matter regarding the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child, as described in 34 CFR §300.507(a)(1) or to a disciplinary matter as described in 34 CFR §§300.530-300.532. If a due process complaint is filed on an issue

that is also the subject of a pending State complaint, the State must set aside any part of the State complaint that is being addressed in the due process hearing until the hearing officer issues a final decision. However, any issue in the State complaint that is not part of the due process action must be resolved using the 60-day time limit and procedures described in 34 CFR §300.152(a) and (b). 34 CFR §300.152(c)(1).

---

**Question B-27:** If a parent has filed a State complaint and the State's resolution is still in process, can the parent request a due process hearing pending resolution of the State complaint?

**Answer:** Yes. A parent who has filed a State complaint is not prevented from filing a due process complaint on the same or similar issues. However, if a parent files a due process complaint and the hearing officer rules on that issue, the due process hearing decision is binding as to that issue. Therefore, while the State may have begun the process of resolving a State complaint prior to the receipt of a due process complaint, pursuant to 34 CFR §300.152(c)(1), the State must set aside any issues in the State complaint that are being addressed in the due process hearing. As indicated in Question B-26, any issue in the State complaint that is not part of the due process action must be resolved using the State complaint resolution procedures in accordance with 34 CFR §300.152(a) and (b). 34 CFR §300.152(c).

---

**Question B-28:** May a State complaint be filed on an issue that was previously decided in a due process hearing?

**Answer:** Under 34 CFR §300.152(c)(2)(i), if a hearing officer has previously ruled on an issue at a due process hearing involving the same parties, the decision is binding on that issue. If a State complaint involving the same parties is filed on the same issue that was previously decided by the hearing officer, the SEA must inform the complainant that the hearing decision is binding on that issue. 34 CFR §300.152(c)(2)(ii). However, the SEA must use its State complaint resolution procedures to resolve any issue in the complaint that was not decided in the due process hearing. In determining that it will not resolve an issue in a State complaint because that issue was previously decided in a due process hearing, the SEA must ensure that the legal and factual issues are identical.

---

**Question B-29:** May the State complaint procedures be used to resolve a complaint that alleges that a public agency has failed to implement a hearing officer's decision?

**Answer:** Yes. Under 34 CFR §300.152(c)(3), if a State complaint alleges that a public agency has failed to implement a due process hearing decision, the complaint must be resolved by the SEA.

**Question B-30:** Once an SEA resolves a State complaint, what must the SEA's written decision contain?

**Answer:** Within 60 days of the date that the complaint was filed, subject to allowable extensions, an SEA is required to issue a written decision to the complainant that addresses each allegation in the complaint and contains: (1) findings of fact and conclusions; and (2) the reasons for the SEA's final decision. 34 CFR §300.152(a)(5). In addition, under 34 CFR §300.152(b)(2), the SEA must have procedures for effective implementation of its final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance. Therefore, if necessary to implement the SEA's final decision, the SEA's written decision must contain remedies for the denial of appropriate services, including corrective actions that are appropriate to address the needs of the child or group of children involved in the complaint. If appropriate, remedies could include compensatory services or monetary reimbursement, and measures to ensure appropriate future provision of services for all children with disabilities. 34 CFR §300.151(b).

---

**Question B-31:** What is the SEA's responsibility after a written decision on a State complaint is issued?

**Answer:** The SEA must ensure that the public agency involved in the complaint implements the written decision on the complaint in a timely manner. The State's complaint procedures must include procedures for effective implementation of the SEA's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance. 34 CFR §300.152(b)(2).

To ensure corrective action and pursuant to its general supervisory responsibilities in 34 CFR §§300.149 and 300.600, the SEA must inform the public agency that is involved in the complaint of any findings of noncompliance and the required corrective action, and ensure that the corrective action is completed as soon as possible and within the timeframe specified in the SEA's written decision, and in no case later than one year of the State's identification of the noncompliance. 34 CFR §300.600(e).

---

**Question B-32:** May a State complaint decision be appealed?

**Answer:** The regulations are silent as to whether a State complaint decision may be appealed. The regulations neither prohibit nor require the establishment of procedures to permit either party to request reconsideration of a State complaint decision, although as noted below, the parent or public agency may use mediation or file a due process complaint to request a due process hearing to resolve disputed issues.

Under 34 CFR §300.152(a), the SEA is required to issue a written decision on each complaint within 60 days after the complaint is filed, unless the SEA extends the time limit because exceptional circumstances exist with respect to the particular complaint or the parties agree to extend the time limit to engage in mediation, or other alternative means of dispute resolution, if available in the State. This means that, absent an allowable extension of the time limit for a particular complaint, the State must issue a final decision within 60 days of the date the complaint is filed.

A State may choose to establish procedures for reconsideration of complaint decisions that would result in a decision on the reconsideration within 60 days of the date on which the complaint was originally filed. Alternatively, a State may establish procedures for the reconsideration when the reconsideration process would not be completed until later than 60 days after the original filing of the complaint, but only if the public agency's implementation of any corrective action required in the SEA's final decision is not delayed pending the reconsideration process. Therefore, if the reconsideration process is completed later than 60 days after the filing of the State complaint, the public agency must implement any required corrective actions while the reconsideration process is pending.

Also, if the issue is still in dispute, the parent or public agency may, if they have not already done so, use mediation under 34 CFR §300.506 or file a due process complaint to request a due process hearing in accordance with 34 CFR §§300.507-300.508, subject to any applicable exceptions described in Questions C-9 and C-10 of this Q&A document.

---

**Question B-33:** Is a State required to make written decisions on State complaints available to the public?

**Answer:** No. There is no requirement in Part B of the IDEA for a State to make written State complaint decisions available to the public. If the State chooses to do so, through such means as posting on its Web site, it must ensure that the confidentiality of any personally identifiable information in the complaint decision is protected from unauthorized disclosure. 34 CFR §§300.622 and 99.30. An SEA also should consult State law for its public records requirements.

---

**Question B-34:** When did the Department remove the Secretarial review provision from the Part B regulations? Is an SEA required to develop a process to replace Secretarial review?

**Answer:** The prior regulation in 34 CFR §300.661(d), permitting Secretarial review of State complaints filed under 34 CFR §§300.660-300.662 (the predecessor to 34 CFR §§300.151-300.153), was removed when the 1999 final Part B

regulations were published, and took effect on May 11, 1999. Under the prior regulation, an organization or individual who was dissatisfied with the State's complaint resolution had the option of requesting that the Office of Special Education and Rehabilitative Services review the SEA's final decision. The decision whether to grant Secretarial review was discretionary and most requests for Secretarial review were denied because the Department was not in the position to evaluate factual disputes in individual cases. 64 FR 12646 (March 12, 1999). The regulations do not require a State to establish a procedure to replace Secretarial review.

---

Key regulatory references related to the State complaint process, as cited above, can be found at http://idea.ed.gov/explore/home, and include the following:

- 34 CFR §300.149
- 34 CFR §§300.151-300.153
- 34 CFR §300.199
- 34 CFR §§300.506-300.516
- 34 CFR §§300.530-300.532
- 34 CFR §300.537
- 34 CFR §300.600
- 34 CFR §§300.611-300.626

## *C. Due Process Complaints and Due Process Hearing Procedures*

**Authority:** The requirements for due process complaints and due process hearings are found in the regulations at 34 CFR §§300.507-300.516.

---

**Question C-1:** Why does the IDEA require that a party file a due process complaint in order to request a due process hearing?

**Answer:** The IDEA Amendments of 2004 made significant changes to IDEA's due process procedures, and parties no longer have the right to request a due process hearing directly. Rather, in order to request a due process hearing under the IDEA, a party (a parent[21] or a public agency[22]) or the attorney representing the party, first must file a due process complaint consistent with 34 CFR §§300.507 and 300.508. When a parent or a parent's attorney files a due process complaint, the IDEA provides for a 30-day resolution period, subject to certain adjustments, prior to the initiation of a due process hearing. 34 CFR §300.510. The purpose of the resolution process[23] is to attempt to achieve a prompt resolution of the parent's due process complaint as early as possible at the local level and to avoid the need for a more costly, adversarial, and time-consuming due process proceeding. Thus, the IDEA's due process procedures emphasize prompt and early resolution of disputes between parents and public agencies through informal mechanisms at the local level without resorting to the more formal and costly due process hearing procedures and potential for civil litigation.

---

**Question C-2:** Who may file a due process complaint?

**Answer:** A parent or a public agency may file a due process complaint to request a due process hearing on any matter relating to the identification, evaluation, or educational placement of a child with a disability or the provision of FAPE to the child. 34 CFR §300.507(a).

---

[21] See Footnote 5 in Section A of this Q&A document for the definition of the term "parent" and for information about the transfer of rights accorded to parents under Part B of the IDEA to a student who has reached the age of majority under State law.

[22] See Footnote 6 in Section A of this Q&A document for the definition of the term "public agency."

[23] For more information on the resolution process, see Section D of this Q&A document.

**Question C-3:** What happens after a due process complaint is submitted?

**Answer:** Under 34 CFR §300.508(a), the party filing the due process complaint, or the attorney representing the party, must forward a copy of the complaint to the other party and to the SEA, and that complaint must remain confidential. A due process complaint must meet the content requirements in 34 CFR §300.508(b) and therefore, must contain: the name of the child; the address of the residence of the child; the name of the school the child is attending; in the case of a homeless youth, available contact information for the child and the name of the school the child is attending; a description of the nature of the problem, including relevant facts; and a proposed resolution of the problem to the extent known and available to the party at the time.

The next step in the process is to determine whether the complaint can be deemed sufficient—i.e., whether the due process complaint contains the information outlined above. Section 300.508(d)(1) provides that the due process complaint must be deemed sufficient, unless the receiving party notifies the other party and the hearing officer in writing, within 15 days of receiving the complaint, that the receiving party believes the complaint does not meet the content requirements in 34 CFR §300.508(b). Under 34 CFR §300.508(d)(2), the hearing officer has five days to make a determination on the sufficiency of the complaint (i.e., whether the due process complaint meets the applicable content requirements). This determination is made based on the hearing officer's review of the complaint alone. The hearing officer must immediately notify both parties in writing of the determination of whether the due process complaint meets the content requirements in 34 CFR §300.508(b). If the hearing officer determines that the due process complaint notice is not sufficient, the hearing officer's decision must identify how the notice is insufficient so that the filing party can amend the due process complaint, if appropriate. 71 FR 46698 (August 14, 2006).

In addition, with the one exception described below, the party receiving a due process complaint must send the other party a response, which specifically addresses the issues raised in the due process complaint, within 10 days of receiving notice of the complaint from the other party. The one exception is if the LEA receiving the due process complaint has not sent the parent a prior written notice consistent with 34 CFR §300.503, concerning the subject matter of the parent's due process complaint. If the LEA has not done so before the parent's due process complaint has been filed, the LEA must send the parent a prior written notice, consistent with 34 CFR §300.503, which explains, among other matters, why the LEA proposed or refused to take the action raised in the due process complaint.

Prior to the initiation of a due process hearing, within 15 days of receiving notice of the parent's due process complaint, the LEA must convene a resolution meeting with the parent and the relevant member or members of the

IEP Team to discuss the issues in the parent's due process complaint, unless the parent and the LEA agree in writing to waive the meeting or the parties agree to use mediation under 34 CFR §300.506.[24] If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur. 34 CFR §300.510(b)(1).

---

**Question C-4:** What happens if a hearing officer determines that a due process complaint is insufficient?

**Answer:** As explained in the *Analysis of Comments and Changes* to the final Part B regulations:

> If the hearing officer determines the notice [due process complaint] is not sufficient, the hearing officer's decision will identify how the notice is insufficient, so that the filing party can amend the notice, if appropriate. 71 FR 46698 (August 14, 2006).

A party may amend its due process complaint only if the other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to 34 CFR §300.510 (opportunity for a resolution meeting or, the parent and the LEA agree in writing to waive the meeting, or if the parties agree to use the mediation process in §300.506); or the hearing officer grants permission to amend the complaint at any time not later than five days before the due process hearing begins. 34 CFR §300.508(d)(3)(ii). If a party files an amended due process complaint, the timelines for the resolution meeting and resolution period begin again with the filing of the amended due process complaint. 34 CFR §300.508(d)(4). If the hearing officer determines that the complaint is insufficient and the complaint is not amended, the complaint may be dismissed. 71 FR 46698 (August 14, 2006).

In general, a party may refile a due process complaint if the complaint remains within the applicable timeline for filing, whether the IDEA timeline or the State-established timeline, under 34 CFR §§300.507(a)(2) and 300.511(f).

---

**Question C-5:** What is the timeline for filing a due process complaint?

**Answer:** The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process

[24] For more information on mediation, see Section A of this Q&A document.

complaint, or, if the State has an explicit time limitation for filing a due process complaint under 34 CFR part 300, in the time allowed by that State law. 34 CFR §300.507(a)(2). The applicable timelines described above do not apply to a parent if the parent was prevented from filing a due process complaint due to: (1) specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or (2) the LEA's withholding of information from the parent it was required under part 300 to provide to the parent. 34 CFR §300.511(f). There is nothing in the IDEA or the Part B regulations that would preclude a State from having a time limit for filing a due process complaint that is shorter or longer than two years. 71 FR 46697 (August 14, 2006). The time limitation for filing a due process complaint used by the State, whether the IDEA timeline or the State-established timeline, must be included in the notice of procedural safeguards that must be given to parents one time a year and upon receipt of the first due process complaint under 34 CFR §300.507 in a school year.
34 CFR §§300.504(a)(2) and 300.504(c)(5)(i).

---

**Question C-6:** May States establish procedures permitting a due process complaint to be filed electronically?

**Answer:** Yes. Under 34 CFR §300.508(a)(1), the public agency must have procedures that require the party or the attorney representing the party to provide to the other party a due process complaint (which must remain confidential). The party filing the due process complaint must forward a copy of the complaint to the SEA, and the complaint must include specific content as described in Question C-3. 34 CFR §300.508(a)(2) and (b). So long as these requirements are met, there is nothing in the Part B regulations that would prohibit a State from accepting due process complaints that are filed electronically. Because the IDEA does not prohibit this practice, States considering accepting, or choosing to accept, electronic filings of due process complaints would need to ensure that there are appropriate safeguards to protect the integrity of the process. Compare, 71 FR 46629 (August 14, 2006) (regarding whether States can accept electronic parental consent).

In developing the appropriate safeguards, States also should consider that the Department has addressed criteria for accepting electronic signatures to satisfy the signed, written consent requirements in the FERPA regulations in 34 CFR part 99. Under 34 CFR §99.30(d), "signed and dated written consent" may include a record and signature in electronic form that identifies and authenticates a particular person as the source of the consent and indicates such person's approval of the information contained in the electronic consent.

Applying these criteria to electronic due process complaint submissions, it would be reasonable for States that either are considering accepting, or have chosen to accept, electronic filings of due process complaints to ensure that their process includes safeguards sufficient to identify or authenticate the

party filing the complaint and indicate that the party approves of the information in the due process complaint. In other words, these safeguards should be sufficient to ensure that a party filing a due process complaint electronically understands that the complaint has the same effect as if it were filed in writing. States would also need to ensure that the same confidentiality requirements that apply to written due process complaints apply to due process complaints filed electronically. 34 CFR §§300.611-300.626. States that are considering or have chosen to accept due process complaints filed electronically should also consult any relevant State laws governing electronic transactions.

---

**Question C-7:** Must States have procedures for tracking when due process complaints are received, including due process complaints filed electronically if a State accepts due process complaints filed electronically?

**Answer:** Yes. States must have procedures, which may be determined by State law, to determine when due process complaints are received, whether filed in hard copy or electronically, including mechanisms to ensure the timely resolution of due process complaints in accordance with 34 CFR §300.510 and for the timely resolution of due process hearings in accordance with 34 CFR §300.515. While a State has some discretion in establishing procedures for determining when a due process complaint notice is considered received, the State remains responsible for ensuring that its procedures allow for the timely resolution of due process complaints and due process hearings and are uniformly applied, consistent with 34 CFR §§300.510 and 300.515. For example, if a due process complaint notice is filed electronically on a day that is not considered a business day (e.g., the weekend), the State could consider the due process complaint notice received on the date the due process complaint notice is filed or on the next business day.

Under 34 CFR §300.504(c)(5), the State must include an explanation of the State's due process complaint procedures in the notice of procedural safeguards, which must be given to parents one time a year and upon receipt of the first due process complaint under 34 CFR §300.507 in a school year. Because these procedures must include filing and decisional deadlines, these procedures would need to address the criteria that the State uses for determining when the State considers a due process complaint notice to be received, including due process complaint notices filed electronically, if the State permits due process complaints to be filed electronically.

---

**Question C-8:** Are there any mechanisms that an SEA must provide to assist parents and public agencies in filing a due process complaint?

**Answer:** Under 34 CFR §300.509, each SEA must develop model forms to assist parents and public agencies in filing a due process complaint; however, the

SEA or LEA may not require the use of the model forms. Parents and public agencies may use the appropriate model form, or another form or document, so long as the form or document that is used meets the content requirements in 34 CFR §300.508(b) for filing a due process complaint. If the SEA's model form includes content not required by 34 CFR §300.508(b), the form must identify that content and specify that it is optional.

---

**Question C-9:** May a parent file a due process complaint because his or her child's teacher is not highly qualified?

**Answer:** No. The regulations in 34 CFR §300.18(f) state that there is no right of action on behalf of an individual student or class of students for the failure of a particular SEA or LEA employee to be highly qualified. See also 34 CFR §300.156(e). However, a parent may file a State complaint with the SEA or use the mediation process under 34 CFR §300.506 to resolve issues regarding staff qualifications. See also Question C-1 in *Questions and Answers on Highly Qualified Teachers Serving Children with Disabilities, dated January 2007* and Question A-6 of this Q&A document.

---

**Question C-10:** Under what circumstances does the IDEA permit parents of parentally-placed private school children with disabilities to use IDEA's due process procedures?

**Answer:** The Department provided the following explanation in Question L-1 in *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools*, April 2011:

> As provided in 34 CFR §300.140(b), a parent of a child enrolled by that parent in a private school has the right to file a due process complaint regarding the child find requirements in 34 CFR §300.131, including the requirements in 34 CFR §§300.300 through 300.311. The due process provisions in section 615 of the Act and 34 CFR §§300.504 through 300.519 of the regulations do not apply to issues regarding the provision of services to any particular parentally-placed private school child with disabilities whom an LEA has agreed to serve because there is no individual right to services for such children under the IDEA. 34 CFR §300.140(a).

However, as described in Question A-7 of this Q&A document, disputes that arise about equitable services are subject to the State complaint procedures in 34 CFR §§300.151-300.153.[25] 34 CFR §300.140(c)(1). A parent wishing to

[25] For more information on State complaint procedures, see Section B of this Q&A document.

file a complaint alleging that an SEA or LEA has violated the requirements in 34 CFR §§300.132-300.135 and §§300.137-300.144 may file a State complaint with the SEA in accordance with the State complaint procedures in 34 CFR §§300.151-300.153.

In addition, under 34 CFR §300.148 and Supreme Court case law, where FAPE is at issue, parents of a parentally-placed private school child with a disability may utilize the due process procedures, including mediation, if seeking reimbursement for the private school placement based on a denial of FAPE.

---

**Question C-11:** Under what circumstances may a public agency use IDEA's due process procedures to override a parent's refusal to consent?

**Answer:** A public agency may use the due process procedures to override a parent's refusal to consent or failure to respond to a request to provide consent only for initial evaluations and reevaluations of children enrolled, or seeking to be enrolled, in public schools. If a parent of a child enrolled in public school, or seeking to be enrolled in public school, does not provide consent for an initial evaluation, or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the due process procedures in 34 CFR §§300.507-300.516, if appropriate, except to the extent inconsistent with State law relating to such parental consent. 34 CFR §300.300(a)(3)(i). Also, a public agency may, but is not required to, use the due process procedures to seek to override a parent's refusal to provide consent to a reevaluation, if the parent has enrolled his or her child or is seeking to enroll the child in a public school. 34 CFR §300.300(c)(1)(ii).

However, if a parent of a child who is home schooled or parentally-placed in a private school by the parent at the parent's expense does not provide consent (or fails to respond to a request to provide consent) for the initial evaluation or reevaluation of his or her child, the public agency may not use the due process procedures under 34 CFR §§300.507-300.516 in order to obtain agreement or a ruling that the evaluation or reevaluation may be provided to the child. 34 CFR §300.300(d)(4).

In addition, if a parent fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services to his or her child, the public agency may not use the due process procedures under 34 CFR §§300.507-300.516 in order to obtain agreement or a ruling that the services may be provided to the child. 34 CFR §300.300(b)(3). Further, if at any time subsequent to the initial provision of special education and related services, a parent revokes consent in writing for the continued provision of special education and related services to his or her child, the public agency may not use the due process procedures under 34 CFR §§300.507-300.516 in

order to obtain agreement or a ruling that the services may be provided to the child. 34 CFR §300.300(b)(4).

---

**Question C-12:** If a parent wishes to obtain an independent educational evaluation (IEE) at public expense pursuant to 34 CFR §300.502(b)(1), and the public agency believes that its evaluation is appropriate, must the public agency file a due process complaint to request a due process hearing?

**Answer:** Yes. Under 34 CFR §300.502(b)(2), if a parent requests an IEE at public expense, the public agency must, without unnecessary delay, either file a due process complaint to request a hearing to show that its evaluation is appropriate or ensure that an IEE is provided at public expense, unless the agency demonstrates in a hearing pursuant to 34 CFR §§300.507-300.513 that the evaluation obtained by the parent did not meet agency criteria. If the public agency files a due process complaint to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an IEE, but not at public expense. Once a final decision is rendered, a parent aggrieved by that decision would have the right to appeal that decision to the SEA pursuant to 34 CFR §300.514, if applicable, or to bring a civil action in an appropriate State or Federal court pursuant to 34 CFR §300.516.

---

**Question C-13:** If both parents have legal authority to make educational decisions for their child and one parent revokes consent for the provision of special education and related services pursuant to 34 CFR §300.9(c), may the other parent file a due process complaint to override the revocation of consent?

**Answer:** No. As long as the parent has legal authority pursuant to applicable State law or a court order to make educational decisions for the child, the public agency must accept either parent's revocation of consent under 34 CFR §300.300(b)(4). A parent who disagrees with the other parent's revocation of consent does not have the right to use the due process procedures to override the other parent's revocation of consent for their child's continued receipt of special education and related services. The IDEA does not address this issue as State law governs the resolution of disagreements between parents. However, the public agency may, based on State or local law, provide or refer parents to alternative dispute resolution systems to attempt to resolve their disagreements.

---

**Question C-14:** Does the IDEA address where due process hearings and reviews are held?

**Answer:** The Part B regulations require that each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved. 34 CFR §300.515(d). OSEP believes that it is important for public agencies to be flexible in scheduling due process hearings to enable parents to participate. While a public agency

must make a good faith effort to accommodate the parent's scheduling request, consistent with 34 CFR §300.515(d), public agencies are not precluded from also considering their own scheduling needs when accommodating the parent's request and in setting a time and place for conducting the due process hearing and/or review.

---

**Question C-15:** What requirements apply to the qualifications and impartiality of hearing officers?

**Answer:** The Part B regulations are designed to ensure the independence of hearing officers, while maintaining minimum qualifications. Under 34 CFR §300.511(c), a hearing officer must not be: (1) an employee of the SEA or the LEA that is involved in the education or care of the child; or (2) a person having a personal or professional interest that conflicts with the person's objectivity in the hearing. This provision addresses independence.

Under 34 CFR §300.511(c)(1)(ii)-(iv), a hearing officer also must: (1) possess knowledge of, and the ability to understand, the provisions of the IDEA, Federal and State regulations pertaining to the IDEA, and legal interpretations of the IDEA by Federal and State courts; (2) possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and (3) possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. This provision addresses minimum qualifications for impartial hearing officers.

Also, 34 CFR §300.511(c)(2) provides that a person who otherwise qualifies to conduct a hearing under 34 CFR §300.511(c)(1) is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. This provision clarifies that hearing officers may be reimbursed for serving as hearing officers without compromising their impartiality. 71 FR 46705 (August 14, 2006).

---

**Question C-16:** Does the SEA have the authority to determine whether a due process complaint constitutes a new issue compared to a previously adjudicated due process complaint between the same parties?

**Answer:** No. The *Analysis of Comments and Changes* accompanying the 1999 final Part B regulations reflects the Department's long-standing position that this matter is an issue for the hearing officer to decide and is not a decision that can be made by the public agency, including an LEA or an SEA. Therefore, a public agency does not have the authority to deny a parent's due process complaint requesting a due process hearing on the basis that it believes the parent's issues are not new. Rather, IDEA leaves these determinations to a hearing officer. 64 FR 12613 (March 12, 1999).

**Question C-17:** May State law authorize the SEA to unilaterally dismiss or otherwise limit the issues that can be the subject of a party's due process complaint?

**Answer:** No. Under the IDEA, hearing officers have complete authority to determine the sufficiency of all due process complaints filed and to determine jurisdiction of issues raised in due process complaints consistent with 34 CFR §§300.508(d) and 300.513.

---

**Question C-18:** Do hearing officers have jurisdiction over issues raised by either party during the prehearing or hearing which were not raised in the due process complaint?

**Answer:** Pursuant to 34 CFR §300.511(d), the party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under 34 CFR §300.508(b), unless the other party agrees. The IDEA does not address whether the non-complaining party may raise other issues at the hearing that were not raised in the due process complaint. Therefore, the decision as to whether such matters can be raised at the hearing should be left to the discretion of the hearing officer in light of the particular facts and circumstances of the case. 71 FR 46706 (August 14, 2006).

---

**Question C-19:** Do hearing officers have the authority to raise and address issues of noncompliance that were not raised by the parties?

**Answer:** The IDEA does not address whether hearing officers may raise and resolve issues of noncompliance if the party requesting the hearing does not raise the issues. Such decisions are best left to States and are generally addressed in their procedures for conducting due process hearings. 71 FR 46706 (August 14, 2006).

---

**Question C-20:** Under what circumstances may a State prohibit hearing officers from reviewing the appropriateness, and ordering the implementation of, settlement agreements reached under the IDEA?

**Answer:** The IDEA provides that agreements reached through the mediation or resolution processes may be enforced in an appropriate State or Federal court, or by the SEA if applicable. 34 CFR §§300.506(b)(7), 300.510(d)(2), and 300.537. Neither the IDEA nor the Part B regulations specifically address the authority of hearing officers to review or approve these settlement agreements. Also, the IDEA does not specifically address enforcement by hearing officers of settlement agreements reached by the parties outside of the IDEA's mediation and resolution processes. Therefore, in the absence of controlling case law, a State may have uniform rules relating to a hearing officer's authority or lack of authority to review and/or enforce settlement

agreements reached outside of the IDEA's mediation and/or resolution processes. However, such rules must have general application and may not be limited to proceedings involving children with disabilities and their parents.

---

**Question C-21:** Once the 30-day resolution period or adjusted resolution period expires, what is the timeline for issuing a final hearing decision?

**Answer:** The public agency conducting the due process hearing (either the SEA or the public agency directly responsible for the education of the child) must ensure that not later than 45 days after the expiration of the 30-day resolution period described in 34 CFR §300.510(b) or the adjustments to the time period permitted in 34 CFR §300.510(c), a final decision is reached in the due process hearing and a copy of the decision is mailed to each of the parties. The SEA is responsible for monitoring compliance with this timeline, subject to any allowable extensions described in Question C-22. 34 CFR §§300.149 and 300.600.

---

**Question C-22:** When would it be permissible for a hearing officer to extend the 45-day timeline for issuing a final decision in a due process hearing on a due process complaint or for a reviewing officer to extend the 30-day timeline for issuing a final decision in an appeal to the SEA, if applicable?

**Answer:** The timelines for due process hearings and reviews described in 34 CFR §300.515(a) and (b) may only be extended if a hearing officer or reviewing officer exercises the authority to grant a specific extension of time at the request of a party to the hearing or review. 34 CFR §300.515(c).

A hearing officer may not unilaterally extend the 45-day due process hearing timeline. Also, a hearing officer may not extend the hearing decision timeline for an unspecified time period, even if a party to the hearing requests an extension but does not specify a time period for the extension. Likewise, a reviewing officer may not unilaterally extend the 30-day timeline for reviewing the hearing decision. In addition, a reviewing officer may not extend the review decision timeline for an unspecified time period, even if a party to the review requests an extension but does not specify a time period for the extension.

---

**Question C-23:** If an SEA contracts with another agency to conduct due process hearings on its behalf, can those decisions be appealed to the SEA?

**Answer:** No. In a one-tier system, the SEA conducts due process hearings. In a two-tier system, the public agency directly responsible for the education of the child conducts due process hearings. The determination of which entity conducts due process hearings is based on State statute, State regulation, or a written policy of the SEA. 34 CFR §300.511(b). In a one-tier system, a party

aggrieved by the SEA's findings and decision has the right to appeal by bringing a civil action in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. 34 CFR §300.516(a). In a one-tier system, an aggrieved party has no right of appeal to the SEA. However, in a two-tier system, an aggrieved party has the right to appeal the public agency's decision to the SEA which must conduct an impartial review of the findings and decision appealed. 34 CFR §300.514(b). A party dissatisfied with the decision of the SEA's reviewing official has the right to bring a civil action in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. 34 CFR §§300.514(d) and 300.516(a). There is nothing in the IDEA that would prohibit a State with a one-tier due process system from carrying out its responsibility by retaining impartial hearing officers under contract to conduct the hearings or contracting with another agency that is not a public agency under the IDEA to conduct the hearings. Because the SEA is the entity responsible for conducting the hearing, there is no right of appeal to the SEA.

---

**Question C-24:** Does a parent have the right to receive a hearing record at no cost, even though the applicable time period to appeal the hearing decision has expired?

**Answer:** Yes. The IDEA provides specific rights to a party to a due process hearing conducted pursuant to 34 CFR §§300.507-300.513, or a party appealing the due process hearing decision to the SEA pursuant to 34 CFR §300.514(b), if applicable, or a party to an expedited due process hearing conducted pursuant to 34 CFR §300.532. A party to these proceedings has the right to obtain a written, or, at the option of the parents, an electronic, verbatim record of the hearing. A party to these proceedings also has the right to obtain a written, or, at the option of the parents, electronic findings of fact and decisions. 34 CFR §300.512(a)(4) and (5). Parents must be given the right to have the record of the hearing and the findings of fact and decisions provided at no cost. 34 CFR §300.512(c)(3).

The IDEA and the Part B regulations do not establish a time period within which a parent must request a record of the hearing or the findings of fact and decisions; nor do they otherwise limit the time period of a parent's right to receive the hearing record and findings of fact and decisions at no cost. We also note that in very limited circumstances, judicial principles of fairness may allow a reviewing officer or court to waive the timeline for a specific appeal. Moreover, the information contained in a hearing record or in the findings of fact and decisions could be used for purposes other than appealing a due process hearing decision. There could be situations where a parent would need the information contained in the hearing record or decision for an IEP Team meeting or for mediation or in a subsequent State complaint or due process complaint.

In addition, States and their public agencies are required to retain records to show compliance with programmatic requirements for a three-year period. If any litigation involving the records has been started before the expiration of the three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later. 34 CFR §§76.731 and 80.42(b).

---

**Question C-25:** Are "motions for reconsideration" permitted after a hearing officer has issued findings of fact and a decision in a due process hearing?

**Answer:** As explained in Question C-23, in a one-tier system where the due process hearing is conducted by the SEA, or its agent, a party does not have the right to appeal a decision to the SEA or make a motion for reconsideration. Under 34 CFR §300.514(a), a decision made in a due process hearing conducted by the SEA is final, except that a party aggrieved by that decision may appeal the decision by bringing a civil action in any State court of competent jurisdiction or in a district court of the United States under 34 CFR §300.516.

Once a final decision has been issued, no motion for reconsideration is permissible. However, a State can allow motions for reconsideration prior to issuing a final decision, but the final decision must be issued within the 45-day timeline or a properly extended timeline. For example, motions for reconsideration of interim orders made during the hearing would be permissible as long as the final decision is issued within the 45-day timeline or a properly extended timeline. Proper notice should be given to parents if State procedures allow for amendments and a reconsideration process may not delay or deny parents' right to a decision within the time periods specified for hearings and appeals. 64 FR 12614 (March 12, 1999).

There may be situations in which the final due process hearing decision contains technical or typographical errors. It is permissible for a party to request correction of such errors when the correction does not change the outcome of the hearing or substance of the final hearing decision. This type of request does not constitute a request for reconsideration as discussed within this response.

---

**Question C-26:** What is the SEA's responsibility after a due process hearing decision is issued?

**Answer:** Hearing decisions must be implemented within the timeframe prescribed by the hearing officer, or if there is no timeframe prescribed by the hearing officer, within a reasonable timeframe set by the State as required by 34 CFR §§300.511-300.514. The SEA, pursuant to its general supervisory responsibility under 34 CFR §§300.149 and 300.600, must ensure that the public agency involved in the due process hearing implements the hearing

officer's decision in a timely manner, unless either party appeals the decision. If necessary to achieve compliance from the LEA, the SEA may use appropriate enforcement actions consistent with its general supervisory responsibility under 34 CFR §§300.600 and 300.608.

---

**Question C-27:** Which public agency is responsible for transmitting the findings and decisions in a hearing to the State advisory panel (SAP) and making those findings and decisions available to the public?

**Answer:** The entity that is responsible for conducting the hearing transmits the findings and decisions to the SAP and makes them available to the public. In a two-tier system where the hearing is conducted by the public agency directly responsible for the education of the child (i.e., the LEA), that public agency, after deleting any personally identifiable information, must transmit the findings and decisions in the hearing to the SAP and make those findings and decisions available to the public. In a one-tier system where the hearing is conducted by the SEA, the SEA must first delete any personally identifiable information and then transmit the findings and decisions in the hearing to the SAP and make those findings and decisions available to the public.
34 CFR §300.513(d). If a State has a two-tier due process system and the decision is appealed, the SEA, after deleting any personally identifiable information, must transmit the findings and decisions in the review to the SAP and make those findings and decisions available to the public.
34 CFR §300.514(c). In carrying out these responsibilities, SEAs and LEAs must comply with the confidentiality of information provisions in 34 CFR §§300.611-300.626. 34 CFR §300.610.

OSEP has advised that in a one-tier due process system, the SEA may meet these requirements by means such as posting the redacted decisions on its Web site or another Web site location dedicated for this purpose and directing SAP members or members of the public to that information.

---

Key regulatory references related to due process complaints and due process hearings, as cited above, can be found at http://idea.ed.gov/explore/home, and include the following:

- 34 CFR §300.140
- 34 CFR §300.149
- 34 CFR §300.167
- 34 CFR §§300.507-300.516
- 34 CFR §300.520
- 34 CFR §300.600
- 34 CFR §§300.611-300.626

The Q&A documents cited in this section can be found at:

- *Questions and Answers on Highly Qualified Teachers Serving Children with Disabilities*, January 2007: http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C2%2C
- *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools*, April 2011: http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C1%2C

## *D. Resolution Process*

**Authority:** The requirements for the resolution process are found in the regulations at 34 CFR §300.510.

---

**Question D-1:** What is the purpose of the resolution meeting?

**Answer:** The purpose of the resolution meeting is to achieve a prompt and early resolution of a parent's[26] due process complaint to avoid the need for a more costly, adversarial, and time-consuming due process hearing and the potential for civil litigation. Section 300.510(a)(1) of the Part B regulations, consistent with section 615(f)(1)(B)(i) of the IDEA, provides that within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of an impartial due process hearing under 34 CFR §300.511, the LEA must convene a meeting with the parent and the relevant members of the IEP Team who have specific knowledge of the facts identified in the due process complaint.[27] The two exceptions to this requirement are described in Question D-6. In the *Analysis of Comments and Changes* accompanying the August, 2006 final Part B regulations, the Department described the purpose of a resolution meeting as follows:

> The purpose of the [resolution] meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint so that the LEA has an opportunity to resolve the dispute. 71 FR 46700 (August 14, 2006).

If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur. 34 CFR §300.510(b)(1).

---

[26] See Footnote 5 in Section A of this Q&A document for the definition of the term "parent" and for information about the transfer of rights accorded to parents under Part B of the IDEA to a student who has reached the age of majority under State law.

[27] For expedited due process complaints, the resolution meeting must occur within seven days of receiving notice of the parent's due process complaint. 34 CFR §300.532(c)(3). The resolution process requirements for expedited due process complaints are described in more detail in Section E of this Q&A document.

**Question D-2:** Why is a resolution meeting not required when an LEA files a due process complaint?

**Answer:** The IDEA requires an LEA to convene a resolution meeting only if the parent is the complaining party.[28] Section 615(f)(1)(B)(i) of the IDEA is clear that the LEA's obligation to convene a resolution meeting prior to the initiation of a due process hearing is triggered within 15 days of receiving notice of a parent's due process complaint, and the implementing regulation in 34 CFR §300.510(a) reflects this statutory provision. As explained in Note 212 of Conf. Rpt. (Conference Report) No. 108-779, p. 217 (2004), "[b]oth the House Bill and Senate amendment require the LEA and parent of a child with a disability to meet within 15 days of a parent's complaint being filed to attempt to resolve the complaint." Thus, as also explained in the *Analysis of Comments and Changes* accompanying the Part B regulations, "[t]here is no provision requiring a resolution meeting when an LEA is the complaining party. The Department's experience has shown that LEAs rarely initiate due process proceedings." 71 FR 46700 (August 14, 2006). Therefore, we expect that LEAs will attempt to resolve disputes with parents prior to filing a due process complaint. This includes communicating with a parent about the disagreement and convening an IEP Team meeting, as appropriate, to discuss the matter and attempt to reach a solution. The LEA and parent may also choose to voluntarily engage in the mediation process described in 34 CFR §300.506 or another appropriate alternative dispute resolution mechanism available in the State to resolve the issue.

Because there is no requirement to convene a resolution meeting when an LEA files a due process complaint, the 45-day timeline for issuing a final decision in a due process hearing begins the day after the LEA's due process complaint is received by the other party and the SEA.

---

**Question D-3:** Does the parent still have the right to challenge the sufficiency of the due process complaint when an LEA files a due process complaint? Must the parent respond to the LEA's due process complaint?

**Answer:** A parent's rights and obligations are not altered even though the resolution process requirements do not apply when an LEA files a due process complaint. The parent still retains the right to challenge the sufficiency of the due process complaint within 15 days of receipt of the complaint, consistent with 34 CFR §300.508(d). It should be noted that one way for an LEA to amend a due process complaint that is not sufficient is for the parent to agree

[28] It should be noted, however, that one way for an LEA to amend a due process complaint that is not sufficient, is for the parent to agree in writing and be given an opportunity to resolve the LEA's due process complaint through a resolution meeting. 34 CFR §300.508(d)(3)(i).

in writing and be given an opportunity to resolve the LEA's due process complaint through a resolution meeting. 34 CFR §300.508(d)(3)(i). Also, the parent must send a response to the LEA that addresses the issues raised in the due process complaint within 10 days of receiving the complaint. 34 CFR §300.508(f).

---

**Question D-4:** If a due process complaint is amended and the 15-day timeline to conduct a resolution meeting starts over, must the LEA conduct another resolution meeting?

**Answer:** Yes. Under 34 CFR §300.508(d)(3), a party may amend its due process complaint subject to the following conditions. The other party must consent in writing to the amendment and be given the opportunity to resolve the complaint through a meeting held pursuant to 34 CFR §300.510. Alternatively, the hearing officer may grant permission to amend the complaint at any time not later than five days before the due process hearing begins. This process is intended to ensure that the parties involved understand the nature of the complaint before the due process hearing begins. 71 FR 46698 (August 14, 2006).

Under 34 CFR §300.508(d)(4), when a due process complaint is amended, the timeline for the resolution meeting and the time period for resolving the complaint begin again with the filing of the amended due process complaint. 71 FR 46698 (August 14, 2006).

---

**Question D-5:** If a parent files a due process complaint with the LEA or public agency but does not forward a copy of the due process complaint to the SEA, when does the timeline for convening a resolution meeting begin?

**Answer:** The Part B regulations do not address this specific question. In establishing procedures for administering the due process complaint system, States should address how a parent's failure to provide the required copy of the due process complaint to the LEA or public agency and SEA will affect the resolution process and due process hearing timelines. However, such procedures must be consistent with the due process requirements of Part B of the IDEA.

For example, a State could require that the LEA advise the parent in writing that the timeline for starting the resolution process will not begin until the parent provides the SEA with a copy of the due process complaint as required by the regulations. As an additional protection for parents, consistent with 34 CFR §300.199, we encourage States to adopt procedures that ensure the LEA or public agency provides a copy of the due process complaint to the SEA and proceeds with the established timelines.

**Question D-6:** Are there circumstances in which an LEA would not be required to convene a resolution meeting when it receives notice of a parent's due process complaint?

**Answer:** Yes. Under 34 CFR §300.510(a)(3), there are two occasions when a resolution meeting need not occur: (1) when the parent and LEA agree in writing to waive the meeting; and (2) when the parent and LEA agree to use the mediation process described in 34 CFR §300.506 to resolve the due process complaint. There are no provisions in the IDEA that allow a parent or an LEA to unilaterally waive the resolution meeting, because the resolution meeting is "a required vehicle for the parent and the LEA to attempt to resolve their differences prior to initiating a due process hearing." 71 FR 46702 (August 14, 2006). Likewise, an agreement to use another alternative dispute resolution mechanism if available in the State, by itself, would not relieve the LEA of its obligation to convene a resolution meeting.

---

**Question D-7:** Does the timeline for a due process hearing decision always begin after the 30-day resolution period?

**Answer:** No. The Part B regulations allow adjustments to the 30-day resolution period. These adjustments may result in a shorter or longer period to resolve the due process complaint and affect when the timeline for a due process hearing decision begins.

If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur. 34 CFR §300.510(b)(1). However, under 34 CFR §300.510(c), there are three circumstances which permit the resolution period to be made shorter than 30 days or longer than 30 days. Note that the 45-day due process hearing timeline in 34 CFR §300.515(a) starts the day after one of the following events: (1) both parties agree in writing to waive the resolution meeting; (2) after either the mediation or resolution meeting starts but before the end of the 30-day resolution period, the parties agree in writing that no agreement is possible; or (3) if both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process.

In addition, as set out in Question D-13, a hearing officer may begin the timeline for a due process hearing decision after receiving a parent's request to begin that timeline, under 34 CFR §300.510(b)(5), based on the LEA's failure to hold the resolution meeting within 15 days of receiving notice of a parent's due process complaint or failure to participate in the resolution meeting.

Further, except where the parties jointly agree to waive the resolution process or use mediation, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the resolution meeting is held. 34 CFR §300.510(b)(3). As explained in Question D-13, an LEA may request a hearing officer to dismiss a complaint when the LEA has been unable to obtain the participation of the parent in a resolution meeting despite making reasonable efforts to do so. 34 CFR §300.510(b)(4).

---

**Question D-8:** Which individuals participate in the resolution meeting?

**Answer:** Under 34 CFR §300.510(a)(4), the parent and the LEA determine the relevant members of the IEP Team to attend the resolution meeting. The LEA must convene a resolution meeting with the parent and relevant member(s) of the IEP Team who have specific knowledge of the facts identified in the parent's due process complaint. The resolution meeting must include a representative of the public agency who has decision-making authority on behalf of that agency. An attorney of the LEA may not attend the resolution meeting unless the parent is accompanied by an attorney. 34 CFR §300.510(a)(1). This is true even if a non-attorney advocate attends the meeting on behalf of the parent. We encourage LEAs and parents to cooperate in determining who will attend the resolution meeting, because a resolution meeting is unlikely to result in any resolution of the dispute if the parties cannot agree on who should attend. 71 FR 46701 (August 14, 2006).

---

**Question D-9:** May the LEA bring its attorney to a resolution meeting when the parent is accompanied by a non-attorney or qualified representative or advocate with the authority under State law to represent the parent at a due process hearing?

**Answer:** No. Under 34 CFR §300.510(a)(1)(ii), an LEA's attorney may not participate in the resolution meeting unless the parent is accompanied by an attorney. Therefore, the attendance of an LEA's attorney is expressly limited to instances where the parent brings an attorney, not a non-attorney advocate or other qualified individual, to the resolution meeting. While the IDEA states that parties to a due process hearing may be accompanied and advised by non-attorneys, the issue of whether non-attorneys may "represent" parties to a due process hearing is a matter that is left to each State to decide. 34 CFR §300.512(a)(1) and 73 FR 73006, 73017, and 73027 (Dec. 1, 2008).

---

**Question D-10:** Must an LEA include the days when schools are closed due to scheduled breaks and holidays in calculating the timeline for convening a resolution meeting?

**Answer:** Yes. Even during periods when school is closed, the LEA must hold the resolution meeting within 15 days of receiving notice of the parent's due

process complaint. 34 CFR §300.510(a). The only exceptions to this requirement are if the parent and the LEA agree in writing to waive the resolution meeting, or the parent and the LEA agree to use mediation under 34 CFR §300.506.

Under 34 CFR §300.11(a), "[d]ay means calendar day unless otherwise indicated as business day or school day." Therefore, the SEA or LEA may not suspend the 15-day timeline for convening a resolution meeting while schools are closed for breaks or holidays. Such a delay would be inconsistent with the 15-day timeline for convening the resolution meeting and the 30-day resolution period described in 34 CFR §300.510, and also would delay the initiation of the 45-day timeline for issuing a final decision in a due process hearing under 34 CFR §300.515(a). 71 FR 46704 (August 14, 2006).

---

**Question D-11:** What is an LEA's responsibility to convene a resolution meeting when the parent cannot attend within the 15-day timeline?

**Answer:** The LEA must attempt to schedule an in person meeting with the parent within 15 days of receiving the parent's due process complaint. If the LEA notifies the parent of its intent to schedule a resolution meeting within the 15-day timeline and the parent informs the LEA in advance of the meeting that circumstances prevent the parent from attending the meeting in person, it would be appropriate for an LEA to offer to use alternative means to ensure parent participation, such as video conferences or conference telephone calls, subject to the parent's agreement. 71 FR 46701 (August 14, 2006). Whether the meeting is conducted in person or by alternative means, the LEA must include the required participants and be prepared to discuss with the parent the facts that form the basis of the due process complaint and any possible resolution of the complaint.

---

**Question D-12:** Must the LEA continue its attempts to convince a parent to participate in a resolution meeting throughout the 30-day resolution period?

**Answer:** Yes. If a parent fails or refuses to participate in a resolution meeting that the LEA attempts to convene within 15 days of receiving notice of the parent's due process complaint, an LEA must continue to make diligent efforts throughout the remainder of the 30-day resolution period to convince the parent to participate in a resolution meeting. At the conclusion of the 30-day resolution period, an LEA may request that a hearing officer dismiss the complaint when the LEA is unable to obtain the participation of a parent in a resolution meeting, despite making reasonable efforts to obtain the parent's participation and documenting its efforts, using the procedures in 34 CFR §300.322(d). 71 FR 46702 (August 14, 2006).

Examples of appropriate efforts LEAs can make to obtain the participation of the parent in the resolution meeting include detailed records of telephone calls made or attempted and the results of those calls and copies of correspondence sent to the parents and any responses received. 34 CFR §300.510(b)(4). In making such efforts, it also would be appropriate for an LEA to inform the parent that the LEA may seek the intervention of a hearing officer to dismiss the parent's due process complaint if the parent does not participate in the resolution meeting.

---

**Question D-13:** If a party fails to participate in the resolution meeting, must the other party seek the hearing officer's intervention to address the pending due process hearing on the parent's due process complaint?

**Answer:** Yes. The regulations in 34 CFR §300.510(b)(4) provide that an LEA may request a hearing officer to dismiss a complaint when the LEA has been unable to obtain the participation of the parent in a resolution meeting despite making reasonable efforts to do so and documenting those efforts. Under 34 CFR §300.510(b)(5), if an LEA fails to hold a resolution meeting within the required timelines or fails to participate in a resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline. The appropriate party must seek the hearing officer's intervention to either dismiss the complaint or to initiate the hearing timeline, depending on the circumstances.

---

**Question D-14:** If a party fails to participate in the resolution meeting, and neither party seeks the hearing officer's intervention to address the pending due process complaint, would the timeline for a due process hearing decision still apply?

**Answer:** Yes. If there is no adjustment to the 30-day resolution period timeline as described in Question D-7, and if the LEA or the parent does not seek the hearing officer's intervention as described in Question D-13, regardless of the reasons for the parties' inaction, the 45-day timeline for a due process hearing decision would remain in effect. 34 CFR §§300.510(b)(2) and 300.515(a).

---

**Question D-15:** What is the SEA's responsibility for ensuring that LEAs comply with the resolution process requirements?

**Answer:** As explained in the *Analysis of Comments and Changes,* the Department fully expects that only in very rare situations will an LEA fail to meet its obligation to convene a resolution meeting within 15 days of receiving notice of the parent's due process complaint, delay the due process hearing by scheduling meetings at times or places that are inconvenient for the parent, or otherwise not participate in good faith in the resolution process. In instances of noncompliance, parents are able to request a hearing officer to allow the due process hearing to proceed. 71 FR 46702 (August 14, 2006).

In addition, an SEA has an affirmative obligation to ensure its LEAs' compliance with the resolution process timelines, consistent with its general supervisory and monitoring responsibilities. 34 CFR §§300.149 and 300.600(d)(2). The SEA must monitor LEAs located in the State for compliance with the requirements for resolution meetings in 34 CFR §300.510. Accordingly, the State must ensure that its LEAs convene a resolution meeting within 15 days of receiving notice of the parent's due process complaint. If the LEA fails to convene a resolution meeting and the parties have not agreed to use mediation or agreed in writing to waive the meeting, the State must ensure the LEA corrects the noncompliance as soon as possible and in no case more than one year after the State's identification of noncompliance, as required in 34 CFR §300.600(e). If necessary to achieve compliance, the SEA may use appropriate enforcement actions consistent with its general supervisory responsibility under 34 CFR §§300.600 and 300.608 to ensure that the LEA complies.

Also, as part of the State's general supervisory responsibility, the SEA must ensure that due process hearing decision timelines are properly calculated and enforced. Therefore, the SEA must establish a mechanism for tracking the resolution process to determine when the resolution period has concluded and the 45-day due process hearing timeline in 34 CFR §300.515(a) (or the expedited due process hearing timeline in 34 CFR §300.532(c)(2)) begins. The SEA has the flexibility to determine its procedures and the appropriate mechanism for tracking the resolution process, given the State's unique circumstances.

---

**Question D-16:** May an LEA require a parent to sign a confidentiality agreement as a precondition to conducting a resolution meeting?

**Answer:** No. An LEA may not require a confidentiality agreement as a precondition to conducting a resolution meeting. The only reasons that an LEA would be excused from the requirement to convene a resolution meeting with the parent within 15 days of receiving notice of the parent's due process complaint are those specified in 34 CFR §300.510(a)(3) and discussed in Question D-6. Neither of these exceptions addresses confidentiality agreements. Nor is there any separate requirement, such as that in 34 CFR §300.506(b)(8) for mediation discussions, requiring parties to resolution meetings to keep the discussions that occur in those meetings confidential. However, as noted in the *Analysis of Comments and Changes*, there is nothing in the IDEA or its implementing regulations that would prohibit the parties to a resolution meeting from entering into a confidentiality agreement as part of their resolution agreement resolving the dispute that gave rise to the parent's complaint. 71 FR 46704 (August 14, 2006).

**Question D-17:** Are there any provisions in the IDEA that require discussions that occur in resolution meetings to remain confidential?

**Answer:** In general, the answer is no. Unlike mediation, IDEA and its implementing regulations do not prohibit or require discussions that occur during a resolution meeting to remain confidential. However, the confidentiality requirements in section 617(c) of the IDEA and the Part B regulations at 34 CFR §§300.611-300.626 and FERPA and its implementing regulations in 34 CFR part 99 apply.

---

**Question D-18:** Do the Part B regulations allow information discussed at a resolution meeting to be introduced at a due process hearing or civil proceeding?

**Answer:** In general, yes. Unlike mediation, the IDEA and its implementing regulations contain no requirement for discussions in resolution meetings to be kept confidential and not be introduced in a subsequent due process hearing or civil proceeding. There is nothing in the IDEA or its implementing regulations that would prevent the parties from voluntarily agreeing that the resolution meeting discussions will remain confidential, including prohibiting the introduction of those discussions at any subsequent due process hearing or civil proceeding. Absent an enforceable agreement by the parties requiring that these discussions remain confidential, either party may introduce information discussed during the resolution meeting at a due process hearing or civil proceeding when presenting evidence and confronting or cross-examining witnesses consistent with 34 CFR §300.512(a)(2). As noted in Question D-16, neither an SEA nor an LEA may require the parties to enter into such an agreement as a precondition to participation in the resolution meeting. 71 FR 46704 (August 14, 2006).

---

**Question D-19:** Must a settlement agreement be signed and executed at the resolution meeting, or may a settlement agreement be signed and executed by the parties prior to the conclusion of the 30-day resolution period?

**Answer:** Pursuant to 34 CFR §300.510(d), if a resolution to the dispute is reached at the resolution meeting, the parties must execute a legally binding agreement. Either party may void the agreement within three business days of the agreement's execution. This regulation contemplates that an agreement may not be finalized at the resolution meeting and therefore allows for a 30-day resolution period. At a time subsequent to the resolution meeting, the parties may have additional discussions and may execute a written settlement agreement within the 30-day resolution period. Only a legally binding agreement reached during the 30-day period that meets the requirements of 34 CFR §300.510(d) and (e), is considered an agreement under the resolution process requirements.

**Question D-20:** If the parties reach agreement on all issues in the parent's due process complaint and execute a written settlement agreement, what happens to the due process complaint?

**Answer:** The Part B regulations do not address the status of the due process complaint or which party is responsible for requesting that the due process complaint be dismissed or withdrawn once a resolution agreement is reached and the three-business-day review period has passed. Such matters are left to the discretion of the State and the hearing officer.

---

**Question D-21:** How can written settlement agreements reached through IDEA's resolution process be enforced if a party believes the agreement is not being implemented?

**Answer:** A written settlement agreement reached through IDEA's resolution process is enforceable in any State court of competent jurisdiction or in a district court of the United States. 34 CFR §300.510(d)(2). Even though this regulation provides for judicial enforcement of resolution agreements, it also provides an SEA the option of using other mechanisms or procedures that permit parties to seek enforcement of resolution agreements. However, this can occur only if use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in an appropriate State or Federal court. 34 CFR §300.537.

---

**Question D-22:** If an agreement is not reached during the resolution meeting, must mediation continue to be available?

**Answer:** Yes. Under 34 CFR §300.506, the public agency must ensure that mediation is available to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through the mediation process described in 34 CFR §300.506. However, mediation must be voluntary on the part of both parties, and may not be used to deny or delay a parent's right to a due process hearing on a due process complaint.

---

**Question D-23:** Does the 30-day resolution period apply if the parties elect to use mediation under 34 CFR §300.506 rather than convene a resolution meeting?

**Answer:** Yes. If the parties choose to use mediation rather than participate in a resolution meeting, the 30-day resolution period is still applicable. Under 34 CFR §300.510(c), the resolution period applies to the use of mediation after the filing of a due process complaint requesting a due process hearing. When the parties engage in mediation, the resolution period may be adjusted

in accordance with 34 CFR §300.510(c)(2) and (3). Adjustments to the resolution period when mediation is used are described in Question D-24.

---

**Question D-24:** What is the impact of mediation on the resolution and due process hearing timelines?

**Answer:** If both parties agree to use the mediation process described in 34 CFR §300.506 instead of the resolution process described in 34 CFR §300.510, the resolution meeting does not need to be held but the 30-day resolution period would still apply. 34 CFR §300.510(a)(3)(ii). If the parties agree in writing to continue the mediation process beyond the end of the 30-day resolution period that began when the due process complaint was received, the 45-day due process hearing timeline does not begin until one of the parties withdraws from the mediation process or the parties agree in writing that no agreement can be reached through mediation. 34 CFR §300.510(c)(2) and (3).

---

**Question D-25:** If the LEA and parents wish to continue the mediation process at the conclusion of the 30-day resolution period must the hearing officer agree to the extension in order for the parties to continue the mediation process?

**Answer:** In general, no. The regulations contemplate that the parties may agree in writing to continue the mediation at the end of the 30-day resolution period pursuant to 34 CFR §300.510(c)(3). Therefore, such agreements would not require hearing officer involvement or approval, but notice to the hearing officer of the agreement would be appropriate.

To the extent that the hearing officer already has established a hearing schedule that is inconsistent with the extension agreed to by the parties, either party may request a specific extension of time from the hearing officer. 34 CFR §300.515(c).

---

Key regulatory references related to the resolution process, as cited above, can be found at http://idea.ed.gov/explore/home, and include the following:

- 34 CFR §300.11
- 34 CFR §300.149
- 34 CFR §§300.506-300.516
- 34 CFR §300.537
- 34 CFR §300.600
- 34 CFR §§300.611-300.626

## *E. Expedited Due Process Hearings*

**Authority:** The requirements for expedited due process hearings are found in the regulations at 34 CFR §§300.532-533.

---

**Question E-1:** What is an expedited due process hearing?

**Answer:** An expedited due process hearing is a hearing involving a due process complaint regarding a disciplinary matter, which is subject to shorter timelines than a due process hearing conducted pursuant to 34 CFR §§300.507-300.516. Under 34 CFR §300.532(a), a parent[29] of a child with a disability who disagrees with any decision regarding placement under 34 CFR §§300.530 and 300.531, or the manifestation determination under 34 CFR §300.530(e), or an LEA that believes that maintaining the child's placement is substantially likely to result in injury to the child or to others, may appeal the decision by requesting a hearing. If a parent or LEA files a due process complaint to request a due process hearing under one of these circumstances the SEA or LEA is responsible for arranging an expedited due process hearing, which must occur within 20 school days of the date that the due process complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing. 34 CFR §300.532(c)(2). Although this hearing must be conducted on an expedited basis under these shortened timelines, it is an impartial due process hearing subject to the requirements of 34 CFR §§300.507, 300.508(a)-(c), and §§300.510-300.514, except as provided in 34 CFR §300.532(c)(2)-(4), as described in Question E-3. 34 CFR §300.532(c)(1).

The shortened timelines for conducting expedited due process hearings in disciplinary situations should enable hearing officers to make prompt decisions about disciplinary matters while ensuring that all of the due process protections in 34 CFR §§300.510-300.514 are maintained.

Note that when a due process complaint requesting an expedited due process hearing is filed either by the parent or the LEA, the child must remain in the alternative educational setting chosen by the IEP Team pending the hearing officer's decision or until the time period for the disciplinary action expires, whichever occurs first, unless the parent and the public agency agree otherwise. 34 CFR §300.533 and 71 FR 46726 (August 14, 2006).

---

[29] See Footnote 5 in Section A of this Q&A document for the definition of the term "parent" and for information about the transfer of rights accorded to parents under Part B of the IDEA to a student who has reached the age of majority under State law.

**Question E-2:** What is the hearing officer's authority in an expedited due process hearing?

**Answer:** An impartial hearing officer conducting an expedited due process hearing under 34 CFR §300.511 hears, and makes a determination regarding, the due process complaint. Under 34 CFR §300.532(b)(2), a hearing officer also has the authority to determine whether the child's removal from his or her placement violated 34 CFR §300.530 (authority of school personnel); whether a child's behavior was a manifestation of his or her disability; and whether maintaining the child's current placement is substantially likely to result in injury to the child or to others. In determining what is the appropriate relief, if any, the hearing officer may return the child to the placement from which he or she was removed or may order that a child's placement be changed to an appropriate interim alternative educational setting for no more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others. 34 CFR §300.532(b)(2). These procedures may be repeated if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others. 34 CFR §300.532(b)(3). A decision in an expedited due process hearing may be appealed consistent with 34 CFR §§300.514 and 300.516. 34 CFR §300.532(c)(5). In a one-tier system, where the SEA conducts the expedited due process hearing, a party aggrieved by the findings and decision has the right to appeal by bringing a civil action in a State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. 34 CFR §§300.516(a) and 300.532(c)(5). In a two-tier system, where the public agency directly responsible for the education of the child conducts the expedited due process hearing, the findings and decision in the hearing can be appealed to the SEA. 34 CFR §300.514(b). If a party is dissatisfied with the SEA's decision, the party may appeal by bringing a civil action in an appropriate State or Federal court, pursuant to 34 CFR §300.516. 34 CFR §300.514(d).

---

**Question E-3:** How is the timeline for conducting an expedited due process hearing calculated? Does this timeline begin after the resolution period?

**Answer:** The following shortened timelines apply when a due process complaint requesting an expedited due process hearing is filed. The resolution meeting must occur within seven days of receiving notice of the parent's due process complaint (34 CFR §300.532(c)(3)(i)), unless the parents and the LEA agree in writing to waive the resolution meeting, or agree to use the mediation process described in 34 CFR §300.506 (34 CFR §300.532(c)(3)). Under 34 CFR §300.532(c)(3)(ii), the due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint. Thus, for expedited due process

hearings, there is a 15-day resolution period from the date the parent's due process complaint requesting an expedited due process hearing is received, and the time period for resolution is measured in terms of calendar days, not school days. Under 34 CFR §300.11(a), "[d]ay means calendar day, unless otherwise indicated as business day or school day." The Part B regulations define school day as "any day, including a partial day that children are in attendance at school for instructional purposes. School day has the same meaning for all children in school, including children with and without disabilities." 34 CFR §300.11(c).

Further, the expedited due process hearing must occur within 20 school days from the date that the parent's due process complaint requesting a due process hearing is filed. Thus, the resolution period is part of, and not separate from, the expedited due process hearing timeline. If an expedited due process hearing occurs, the hearing officer must make a determination within 10 school days after the hearing. 34 CFR §300.532(c)(2).

---

**Question E-4:** May the parties mutually agree to extend the resolution period to resolve an expedited due process complaint?

**Answer:** No. There is no provision in the IDEA or the Part B regulations that permits adjustments to the 15-day resolution period for expedited due process complaints. 34 CFR §300.532(c). Also, there is no provision in the Part B regulations permitting the parties to agree to extend this time period. Therefore, when the parties have participated in a resolution meeting or engaged in mediation and the dispute has not been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint, the expedited due process hearing may proceed. 34 CFR §300.532(c)(3)(ii).

---

**Question E-5:** How must SEAs and LEAs apply the timeline requirements for expedited due process hearings if the due process complaint is filed when school is not in session?

**Answer:** When a due process complaint requesting an expedited due process hearing is filed during the summer or when school is not otherwise in session, the SEA or LEA responsible for arranging the expedited due process hearing is not required to count those days in calculating the expedited due process hearing timelines. A school day has the same meaning for all children in school, including children with and without disabilities. 34 CFR §300.11(c)(2). Therefore, any day that children without disabilities are not in school is not counted as a school day, and is not considered in calculating the expedited due process hearing timelines. For example, a day on which a public agency only provides extended school year services to children with disabilities and does not operate summer school programs for all children cannot be counted as a "school day." 71 FR 46552 (August 14, 2006). In contrast, if a due process

complaint requesting a hearing is filed under 34 CFR §§300.507-300.516, when school is not in session, the SEA is required to meet the 30-day resolution period and 45-day hearing timelines in 34 CFR §§300.510 and 300.515(a).

---

**Question E-6:** May a party challenge the sufficiency of a due process complaint requesting an expedited due process hearing?

**Answer:** No. The sufficiency provision in 34 CFR §300.508(d), described previously in Questions C-3 and C-4 of this Q&A document, does not apply to expedited due process complaints. Because of the shortened timelines that apply to conducting an expedited due process hearing, it would be impractical to extend the timeline in order for this provision to apply. 34 CFR §300.532(a) and 71 FR 46725 (August 14, 2006).

---

**Question E-7:** May a hearing officer extend the timeline for making a determination in an expedited due process hearing?

**Answer:** No. The SEA or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the due process complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing.
34 CFR §300.532(c)(2). There is no provision in the Part B regulations that would give a hearing officer conducting an expedited due process hearing the authority to extend the timeline for issuing this determination at the request of a party to the expedited due process hearing.

A State may establish different procedural rules for expedited due process hearings than it has established for other due process hearings, but except for the timelines in 34 CFR §300.532(c)(3), those rules must be consistent with 34 CFR §§300.510 through 300.514.

---

**Question E-8:** How can the parties meet the requirement in 34 CFR §300.512(b) to disclose evaluations and recommendations to all parties at least five business days before an expedited due process hearing begins?

**Answer:** Because the 15-day resolution period for a due process complaint requesting an expedited due process hearing concludes well before the 20-school-day period within which the hearing must occur, the parties should have enough time to meet this requirement before the hearing begins. This is because 15 calendar days would usually be the equivalent of 11 school days. Also, there is nothing in the IDEA that would prevent the parties from agreeing to disclose relevant information to all other parties less than five business days prior to an expedited due process hearing. 71 FR 46706 (August 14, 2006).

**Question E-9:** May a school district proceed directly to court for a temporary injunction to remove a student from his or her current educational placement for disciplinary reasons or must the school district exhaust administrative remedies by first filing a due process complaint to request an expedited due process hearing?

**Answer:** While this situation is not addressed specifically by the Part B regulations, the Department's position, in the context of discipline, is that a school district may seek judicial relief through measures such as a temporary restraining order when necessary and legally appropriate. In addition, there is extensive case law addressing exigent circumstances where exhaustion of administrative remedies is not required or where the failure to exhaust administrative remedies may be excused. In general, a school district that goes directly to court seeking to remove a child with a disability would need to show that the proposed removal is appropriate (e.g., that other interventions will not reduce the immediate risk of injury) and that exhaustion of the expedited due process hearing process should not be required (e.g., due to the exigency of the situation). If appropriate, prior to seeking a court order, the LEA should attempt other interventions which could include, but are not limited to, the use of positive behavioral interventions and supports and other strategies to address the behavior giving rise to the proposed removal. See 34 CFR §§300.324(a)(2)(i) and 300.530(e)-(f).

Key regulatory references related to expedited due process hearings, as cited above, can be found at http://idea.ed.gov/explore/home, and include the following:

- 34 CFR §300.11
- 34 CFR §§300.506-300.516
- 34 CFR §§300.530-300.533

# CADRE Continuum of Dispute Resolution Processes & Practices

| Stages of Conflict | Stage I | | | | Stage II | | | Stage III | | | | Stage IV | | | | Stage V | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Levels of Intervention | Prevention | | | | Disagreement | | | Conflict | | | | Procedural Safeguards | | | | Legal Review | | |
| Assistance/ Intervention Options | Parent Engagement | Participant & Stakeholder Training | Stakeholder Council | Collaborative Rule Making | Parent to Parent Assistance | Case Manager | Telephone Intermediary | Facilitation | Mediation Models | Ombudsperson | Third-Party Opinion/Consultation | Resolution Meeting | Mediation under IDEA | Written State Complaints | Due Process Hearing | Hearing Appeal (Two-Tier Systems) | Litigation | Legislation |
| Dimensions that help clarify placement of the options along the Continuum | Third-Party Assistance | | | | | | | | | | | | | | Third-Party Intervention | | | |
| | Decision Making by Parties | | | | | | | | | | | | | | Decision Making by Third-Party | | | |
| | Interest-Based | | | | | | | | | | | | | | Rights-Based | | | |
| | Informal & Flexible | | | | | | | | | | | | | | Formal & Fixed | | | |

http://www.directionservice.org/cadre/aboutcontinuum.cfm

# Quick Guide to Special Education Dispute Resolution Processes for Parents of Children & Youth (Ages 3-21)

*This guide is not intended to interpret, modify, or replace any IDEA Part B procedural safeguards or requirements of federal or state law.*
*State regulations associated with these processes vary widely. Parents are encouraged to contact their state educational agency or parent center for more information.*

| Processes | IEP Facilitation<br>*Not required by the IDEA; availability varies by state* | Mediation | Resolution Meeting | Written State Complaint | Due Process Complaint/ Hearing Request | Expedited Hearing Request<br>*& Resolution Meeting* |
|---|---|---|---|---|---|---|
| **How the Processes Differ** | An optional early resolution process where an impartial facilitator assists the IEP team with communication and problem solving. | A voluntary process that brings people together with a mediator, who helps them communicate with each other and resolve their disagreements. | A meeting that takes place after a parent files a due process complaint/hearing request but before a due process hearing takes place. | A written document used to communicate that a public agency (e.g., school district) has not followed the IDEA, and to request an investigation. | A process used to resolve a formal complaint made by a parent or public agency (e.g., school district), who are together referred to as "the parties." | A special type of due process complaint/ hearing request available only in certain situations that relate to a student's discipline and placement. |
| **What Issues & When Used** | Used when a parent and school district are unable to agree on important issues related to a child's IEP, or when a meeting is expected to address complex issues or be controversial. | Available anytime there is a disagreement between parents and educators about special education and/or related services. | Used to resolve issues listed in a due process complaint/hearing request.<br><br>The meeting must occur unless the parent and school district agree in writing not to have the meeting, or to use the mediation process instead. | Available anytime there is a concern about a particular child or an issue that affects children system-wide. | Used to resolve disagreements relating to the identification, evaluation, educational placement or provision of a free, appropriate public education (FAPE) to a child who needs or is suspected of needing special education and related services. | Used when parents disagree with a school district's discipline-related decision that affects their child's placement, or whether the child's behavior is related to his or her disability.<br><br>A school district may use this process if it believes that a child's behavior could be dangerous to the child or others. |
| **Who Initiates** | A parent or school district may request IEP facilitation. A state educational agency may also recommend this, as an alternative to a more formal process. | A parent or school district may request mediation. A state educational agency may also recommend this, as an alternative to a more formal process. | The school district must hold a resolution meeting within 15 calendar days of receiving notice of a parent's due process complaint/hearing request. | Any person or organization may file a written state complaint. | A parent or school district may file a due process complaint/hearing request. | A parent or school district may file an expedited due process complaint/hearing request. |
| **Outcome or Desired Result** | An IEP that is supported by the team members and benefits the child. | A signed, legally enforceable, written agreement. | A signed, legally enforceable, written agreement that resolves issues listed in the due process complaint/hearing request. | A written decision that includes findings and conclusions, and lists reasons for the final decision. Must also include actions required to address the needs of the child or children related to the complaint. | A written decision with findings of fact and conclusions of law, which may order specific activities to be carried out. | A written decision with findings of fact and conclusions of law, which may order the child to be provided with a specific educational placement. |
| **Process Distinctions** | IEP facilitation is an early dispute resolution option that is not required by the IDEA.<br><br>IEP facilitation allows all members of the team the chance to participate fully, since the facilitator serves as the meeting leader. | Mediation discussions are confidential.<br><br>Mediation is a flexible process – participants may influence the process, and ultimately determine the outcome. | Resolution meetings only occur after a due process complaint/hearing request is filed.<br><br>The resolution meeting occurs unless the parent and school district both agree in writing not to have the meeting, or go to mediation instead. | This is the only dispute resolution option open to any person or organization, including those unrelated to the child.<br><br>The final decision may include corrective actions that are child-specific or relate to system-wide issues. | A formal record of the hearing (a written or electronic transcript) must be made and provided to the parent.<br><br>The decision is appealable in state or federal court.<br><br>The prevailing party may attempt to recover attorneys' fees in a separate court action. | See *Due Process Complaint/Hearing Request* ← |
| **Benefits** | May build and improve relationships among IEP team members.<br><br>Sometimes, team members feel better heard when a facilitator is involved.<br><br>Can help resolve disagreements more quickly than other options.<br><br>Keeps decision-making with team members who know the child best.<br><br>The IEP team may work together more effectively and efficiently. | Discussions are confidential – what is said in mediation can't be used as evidence in a due process hearing or civil lawsuit.<br><br>A more flexible, less adversarial alternative to other dispute resolution options, like due process complaints/hearing requests.<br><br>Sometimes, participants work with the mediator to design the process; in some cases, they may be allowed to select the mediator together.<br><br>Can help resolve disagreements more quickly than other options. | Provides a chance for the parent and school district to work together to resolve issues prior to a due process hearing.<br><br>Keeps decision-making with the parent and school district who know the child.<br><br>The school district may only bring an attorney to the resolution meeting if the parent chooses to bring an attorney.<br><br>The parent or school district may cancel a resolution agreement within 3 business days of the agreement being signed. | A written decision must be issued no later than 60 calendar days after the complaint was received, unless the timeline is extended.<br><br>A written state complaint is relatively easy to file. | From the date that the complaint is filed until the decision is final, your child stays in his or her current educational placement, unless you and the school district agree otherwise – this is called "pendency" or "stay-put."<br><br>The decision is legally binding on the parties.<br><br>The state educational agency is responsible for ensuring the decision is followed, unless it is appealed. | This process is intended to quickly address decisions concerning a student's discipline and placement. |
| **Considerations** | Parents and the school district must agree to use IEP facilitation.<br><br>For the process to be successful, everyone at the meeting needs to respect the role of the facilitator and be willing to participate.<br><br>The facilitator typically does not address issues unrelated to the IEP. | Mediation is voluntary, so the parent and school district must both agree to participate.<br><br>Whether there is resolution of the issues, or an agreement is created, depends upon the participants.<br><br>Complex situations may require multiple mediation sessions to come to agreement. There is no guarantee that a written agreement will be created. | Discussions at the resolution meeting are not confidential, and you cannot be required to sign a confidentiality form to participate in the meeting.<br><br>Parents and the school district may choose to sign a confidentiality agreement or include it in a resolution agreement. | The person or organization filing the complaint must provide facts to support the problems listed in their complaint.<br><br>This process does not require those involved to try resolving the dispute collaboratively. Mediation remains available anytime.<br><br>The IDEA does not require states to offer an appeal process for the written decision—*check with your state educational agency for options that may be available.* | The decision is made by a hearing officer or administrative law judge who is not involved in the child's education.<br><br>The decision is legally binding, even if you disagree with the outcome.<br><br>If a decision is appealed, it may not be carried out until the appeal is final.<br><br>School districts are typically represented by attorneys. If a parent hires an attorney, it is at their own expense. | The expedited hearing timeline is based on school days, and the resolution meeting period is based on calendar days.<br><br>It is important to keep timeline differences in mind, especially during or close to times when school is not in session, such as vacations and extended breaks.<br><br>The resolution period, hearing, and decision timelines cannot be extended. |

| Processes | IEP Facilitation<br>*Not required by the IDEA; availability varies by state* | Mediation | Resolution Meeting | Written State Complaint | Due Process Complaint/ Hearing Request | Expedited Hearing Request<br>*& Resolution Meeting* |
|---|---|---|---|---|---|---|
| **Decision-maker** | The IEP team. | Participants work on solutions together and are in control of the outcome. | The parents and school district identify the terms of any agreement. | The state is responsible for ensuring that an investigation is done, if necessary, and a decision is made about the complaint. | A hearing officer or administrative law judge makes the decision. If the decision is appealed, a judge makes the decision. | See *Due Process Complaint/Hearing Request* ← |
| **Role of Third Party** | A facilitator typically:<br>▪ Helps team members develop ground rules and an agenda for the meeting.<br>▪ Guides discussion by asking child-focused questions.<br>▪ Keeps the team on task and the meeting on schedule.<br>▪ Asks questions to clarify points of agreement and disagreement, and help identify workable solutions.<br>▪ Does not make decisions or determine if team members are right or wrong. | A mediator typically:<br>▪ Helps participants develop ground rules for the session.<br>▪ Creates a safe environment and encourages participants to be respectful of other points of view.<br>▪ Guides discussion by listening, identifying interests, and clarifying concerns.<br>▪ Does not make decisions.<br>▪ Is knowledgeable of laws relating to special education and related services. | The IDEA does not include a third party for resolution meetings.<br><br>*Some states may provide facilitators for resolution meetings if requested by the parent and school district, although this is not required.* | An investigator:<br>▪ Reviews information related to the complaint.<br>▪ May interview or meet with people related to the complaint.<br>▪ Makes findings and a determination based on applicable law. | The hearing officer or administrative law judge:<br>▪ Oversees the hearing timeline, including all pre-hearing activities.<br>▪ Conducts the hearing and manages procedural matters.<br>▪ Uses applicable law to write a decision based on evidence and testimony presented at the hearing.<br>▪ May dismiss the complaint if the issues are resolved before the hearing. | See *Due Process Complaint/Hearing Request* ← |
| **Time Frame** | No specific timeline.<br><br>Meetings may be scheduled within a few days or weeks of a request being received. | Available at any time, even if a due process complaint/hearing request or written state complaint has already been filed.<br><br>Must be scheduled in a timely manner. | If the requirement is not waived, or mediation is not used, a resolution meeting must take place within 15 calendar days of the filing of a due process complaint/ hearing request.<br><br>A parent may ask the hearing officer or administrative law judge to start the hearing timeline if the school district does not hold the resolution meeting on time.<br><br>The parties have up to 30 calendar days to work on a resolution prior to the hearing timeline. The hearing officer or administrative law judge may extend this period at the request of the parties. | Under the IDEA, written state complaints must be filed within 1 year of the date when the individual knew or should have known of the problem.<br><br>The written decision must be issued no later than 60 calendar days from the date the complaint was filed, unless the timeline is extended. | Under the IDEA, due process complaints must be filed within 2 years of the date when a party knew or should have known of the problem.<br><br>The written decision must be issued within 45 calendar days from the end of the resolution period, unless a party requests a specific extension of the timeline. | A resolution meeting must occur within 7 calendar days, unless the parties agree in writing not to have the meeting, or use mediation instead.<br><br>The hearing timeline proceeds if the issue is not resolved within 15 calendar days.<br><br>The hearing must be held within 20 school days of the request being filed.<br><br>The decision must be issued within 10 school days of the hearing. |
| **Financial Cost/ Who Pays** | Typically, there is no cost to the parent – the meeting is provided at public expense. | No cost to the parent – the mediator and facilities are provided at public expense. | No cost to the parent – the meeting is provided at public expense. | No cost to the complainant – the investigation and decision are provided at public expense. | The hearing, hearing officer or administrative law judge, facilities, and decision are provided at public expense.<br><br>Each party pays its own expenses, which may include attorneys' fees and witnesses. | See *Due Process Complaint/Hearing Request* ← |
| **Impact on Relationships** | Having a facilitator present at IEP meetings can help team members problem-solve together more effectively.<br><br>Better communication and improved relationships often result from facilitated IEP meetings. | A mediator may help participants problem-solve more effectively.<br><br>A successful mediation can help improve the school-family relationship. | Resolution meetings give parents and school districts an opportunity to resolve issues without going to a hearing.<br><br>Where available, using a facilitator to guide discussion and problem-solve may result in better communication. | This process does not focus on relationships. | Due process is considered the most adversarial dispute resolution process. | See *Due Process Complaint/Hearing Request* ← |
| **How to Prepare**<br><br>*Additional resources are available on the CADRE Website* | It may be helpful to:<br>▪ Make a list of the issues you want to discuss and questions you want to ask.<br>▪ Think about what is most important to your child and his or her needs.<br>▪ Be willing to listen and carefully consider others' ideas.<br>▪ Organize documents, put dates and notes on them, and bring extra copies.<br>▪ Bring materials that may be helpful to explain or inform others.<br>▪ Think about how you plan to deal with emotions during the meeting.<br>▪ Arrive a little before the meeting, so you have time to get ready to participate. | It may be helpful to:<br>▪ Identify issues you want to discuss during the mediation.<br>▪ Make a list of your child's needs and questions you want to ask.<br>▪ Think of questions that others might ask and write down possible responses.<br>▪ Organize documents, put dates and notes on them, and bring extra copies.<br>▪ Bring materials that may be helpful to explain or inform others.<br>▪ Be willing to listen and carefully consider others' ideas, as well as possible solutions.<br>▪ Think about how you plan to deal with emotions during the meeting. | It may be helpful to:<br>▪ Bring a copy of the due process complaint/hearing request and other materials that may be useful to you.<br>▪ Make a list of your child's needs.<br>▪ Organize materials, including dates and notes on documents.<br>▪ Consider all possible solutions to the problem.<br>▪ Think about how you plan to deal with emotions during the meeting, and try to stay optimistic.<br>▪ Consider asking someone to go to the meeting with you, to help you stay positively focused. | A complainant should:<br>▪ Include information to support the problems identified when the complaint is filed.<br>▪ Follow state requirements for filing the complaint. (For example, some states require an original, signed complaint.)<br>▪ Provide the school district with a copy of the complaint.<br>▪ Respond to all requests for more information about the complaint in a timely manner.<br>▪ Review the school district's response to the complaint and, if appropriate, provide additional information according to the state's guidelines. | Considerable preparation is needed to present a case adequately.<br><br>Parties should be prepared to do the following for a hearing:<br>▪ Gather and submit evidence.<br>▪ Prepare testimony, witness lists, and other hearing documents.<br>▪ Question and cross-examine witnesses.<br><br>Parties choose whether to hire or consult with an attorney. A person who is not represented by an attorney may be referred to as appearing "*pro se*." This is a Latin term that means the person represents himself or herself in the legal proceeding. | See *Due Process Complaint/Hearing Request* ← |

CADRE produced this document under U.S. Department of Education Office of Special Education Programs Cooperative Agreement No. H326X130001. Tina Diamond, Ph.D., served as the project officer. The views expressed herein do not necessarily represent the positions or policies of the U.S. Department of Education. No official endorsement by the U.S. Department of Education of any product, commodity, service, or enterprise mentioned in this publication is intended or should be inferred. This product is public domain. Authorization to reproduce it in whole or part is granted. While permission to reprint this publication is not necessary, the citation should be: CADRE (2015). CADRE *Quick Guide to Special Education Dispute Resolution Processes for Parents of Children & Youth (Ages 3-21)*, Eugene, Oregon, CADRE. Publication Date: January 2015.

**Center for Appropriate Dispute Resolution in Special Education** **Website:** www.directionservice.org/cadre **Email:** cadre@directionservice.org **Phone:** (541) 686-5060

# Dispute Resolution in Special Education

## Self-determination, Dignity, and Imagination are Key

*By Philip Moses*

Gabriel and his extended family immigrated to the United States from Colombia several years ago. Gabriel's mother, Elena, wants her son, who has cerebral palsy and developmental delays, to attend their neighborhood school in a regular fourth-grade class, where, she is convinced, he will learn best. Although Gabriel does not have any behavioral problems, Elena worries that he will develop them if he spends most of his day in a special education classroom. School officials, however, are certain that Gabriel's current special education setting is appropriate and want him to stay there. The officials also believe that this placement meets the "least restrictive environment" requirements of federal law. The school's administrators have offered to go to state-sponsored mediation to resolve the matter, but Elena is reluctant to do so because after many frustrating meetings, she feels that she and school officials can no longer talk to each other constructively. In addition, Elena's sister had a bad experience with a court-appointed divorce mediator who seemed both directive and impatient with the sister's limited English, and Elena fears the same might happen to her. At the same time, Elena has learned that hiring an experienced lawyer in her rural area will be expensive and maybe even impossible, since the local bar has no attorneys who regularly work on special education matters. How can she afford a big legal fee and the emotional costs of pursuing litigation? If she does not pursue legal remedies, how can she be sure Gabriel can learn in a way that she believes will allow him to thrive and succeed?

Gabriel's situation[1] is just one example of how access to justice can be in jeopardy when a parent in a special education dispute considers her options, including ones she sees as challenging and perhaps disrespectful. Special education dispute resolution has changed considerably in recent decades, and this article examines the contours of dispute resolution in special education today — and how it has evolved to provide a broader landscape of options and exemplary practices, reflecting a pathway to justice that is much wider than routes found within the narrow limits of the law.

## A Complex Terrain

While most conversations between educators and parents of children with disabilities are positive, interactions can be marked by strong emotions, differing perceptions of what the student needs and can accomplish, and disagreements about which educational programs, methodologies, and services can help a child lead the fullest life possible. Special education conflicts are often difficult to resolve and, if poorly managed, can lead to intractable situations that are costly as well as destructive for all involved. Ultimately, they can be extremely damaging to the educational needs and future prospects of the child who is at the heart of the conflict.

When parents express concern that a child is not receiving an appropriate education, designing and implementing dispute resolution systems are complicated by numerous factors. These include complex federal and state regulations; the involvement of multiple parties, each of whom may have different interests; conflict resolution practices that may be culturally unresponsive; and, in many parts of the United States, a scarcity of lawyers who can represent families in such matters.

(Other issues that this article does not address can also affect access to fair and just educational opportunities in special education. These include fiscal limitations, which make it difficult to sustain general teacher levels and current educational resources, let alone provide individualized services for students with disabilities; tension between general and special education systems; and underused conflict resolution procedures in states — typically smaller states — where there are few special education disputes.)

"Special education conflicts are often difficult to resolve and, if poorly managed, can lead to intractable situations that are costly as well as destructive for all involved."

Fundamentally, two central realities — that the family and the school system will probably have a long-term relationship and that they share an interest in the child's education and development — suggest that conflicts related to special education programs and services are best ameliorated through non-adversarial, collaborative dispute resolution mechanisms. Unlike the parties in a contract dispute, for instance, who may not have a compelling interest in continuing their relationship, parents and schools need each other, and a resolution that addresses their common interests often will preserve what should be a collaborative working relationship in ways that would not be possible through an adversarial, decision-making procedure. Just as important, ample evidence exists that outcomes for children are vastly improved when parents and educators have a shared vision and engage as partners working toward creating high expectations and meaningful results.

Many people are surprised to learn that in the United States today, nearly seven million individuals under the age of 21 have an identified disability.[2] Each of these children falls under the Individuals with Disabilities Education Act (IDEA), enacted by Congress and considered an indispensable civil rights law, which states (in part), "Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities."[3]

Originally adopted as the Education for All Handicapped Children Act of 1975 (Public Law 94-142) and amended several times, most recently in 2004, the legislation set forth formal procedures for dispute

resolution while at the same time indicating a strong preference for the more collaborative methods of mediation and facilitation and for less reliance on adversarial and contentious methods (such as due process hearings and written state complaints). The law states: "Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways."[4] This preference was reflected in the Summary and Analysis of Comments and Changes preceding the 2006 final regulations for Part B of the IDEA. There, the US Department of Education noted that "early identification and resolution of disputes would likely benefit all."[5]

Serving as the bedrock under IDEA's core principles of equality of opportunity, full participation, independent living, and economic self-sufficiency are a number of provisions that serve as corridors allowing students with disabilities to access what, in the end, is a "just" educational experience. Under IDEA, every child who is suspected of having a disability is entitled to an "appropriate evaluation." Once identified, a child with a disability is entitled to a "free appropriate public education"; a written document called an Individualized Education Program (IEP) developed by a team that includes the parents; placement in the "least restrictive environment" possible; parental involvement and decision-making in the planning process; notification of a planned evaluation; access to materials related to their child and participation in all meetings regarding their child's placement; and procedural safeguards and dispute resolution mechanisms to help families enforce their rights and resolve disagreements between parents and schools. When differences or conflicts arise, parents and schools can request mediation, have a written complaint investigated, or file for a due process hearing, all with their state education agency. They can also attempt to resolve a due process complaint through a resolution meeting in advance of a hearing. Ultimately, they can appeal a hearing decision in state or federal court. Each of these dispute resolution mechanisms, available to both parents and school systems, comes with its own benefits and limitations.

"Serving as the bedrock under IDEA's core principles of equality of opportunity, full participation, independent living, and economic self-sufficiency are a number of provisions that serve as corridors allowing students with disabilities to access what, in the end, is a "just" educational experience."

Disputes in special education can generally be sorted into three categories: disagreements about the design of educational programs and services for a student with disabilities; those about the delivery of those programs and services; and those involving a breakdown in relationships because of communication difficulties, lack of trust, or misperceptions of intent. Most disputes, like the one involving Gabriel and his mother, Elena, have elements of all three.[6] Using the language of the IDEA, these disputes often are related to a "free and appropriate public education" as well as whether the student is receiving educational services in the "least restrictive environment." Intractable disagreements around these matters are often the result of a breakdown in communication between the school and the family, leading to the deterioration of what probably once was a healthy relationship.

While a sound procedural safeguard system is essential to the administration of justice, parents and school leaders are best served when states invest in the prevention of disputes, the early management of disagreements, and in non-adversarial conflict resolution processes. To facilitate the development of high-performing, state-level dispute resolution systems that conform to the law and, more important, offer an expanded range of collaborative methods, beginning in 1998, the US Department of Education (through the Office of Special Education Programs) funded the national Center for Appropriate Dispute Resolution in Special Education, known as CADRE.

Since its founding, a core component of CADRE's work has been assisting state education agencies with implementation of the dispute resolution provisions found in IDEA. But CADRE's mission is much greater than just helping states ensure that their

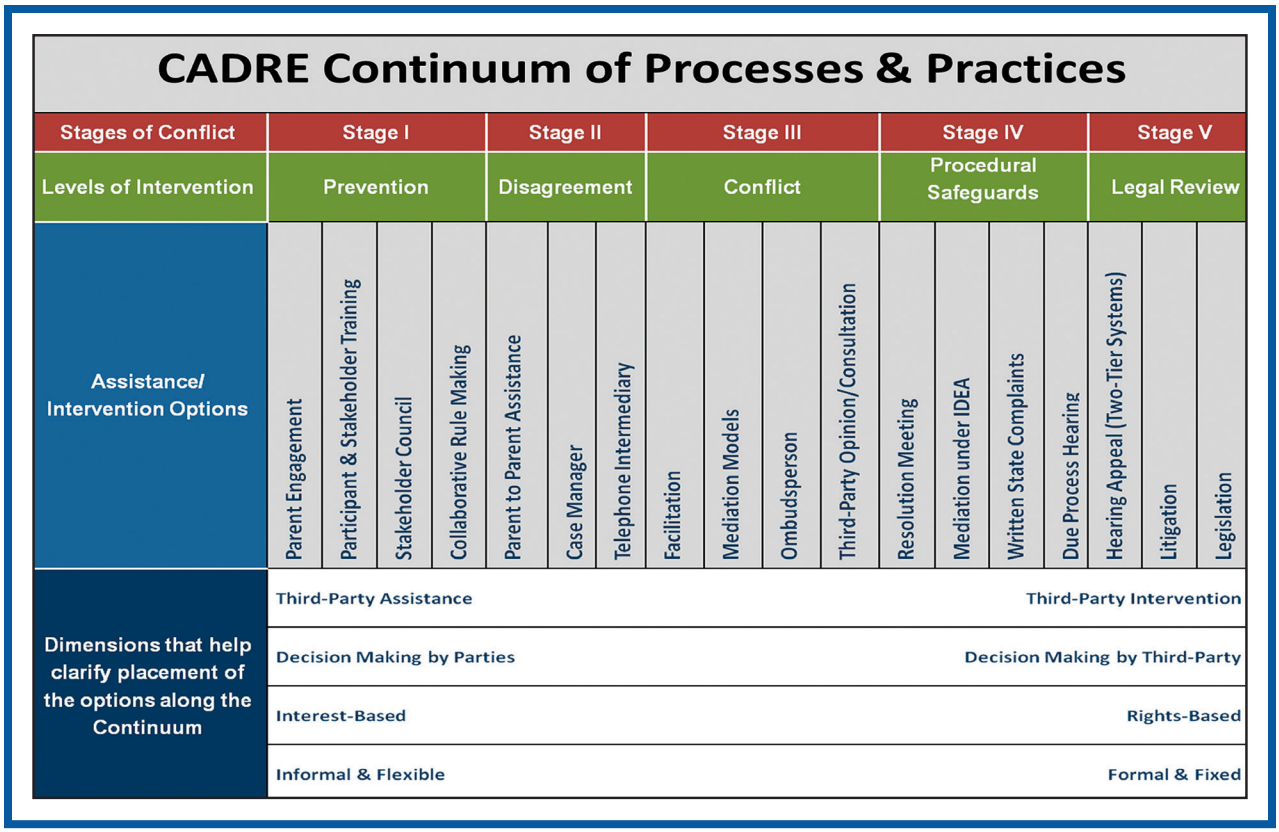
systems comply with federal law. CADRE supports education agencies, families, and service providers in accessing the full continuum of appropriate dispute resolution processes. The vision and purpose is to empower families and schools to work together more productively, create partnerships in which individual perspectives are valued, encourage everyone to consider collaborative processes as a first choice for resolving differences when informal talk has failed, and help keep the focus on children's health, education, and well-being.

## A Continuum of Options

Fortunately, the landscape of early dispute resolution options has evolved to offer most families and schools a range of relational-oriented, collaborative methods for resolving disagreements with processes that are aligned with the principles of procedural justice. CADRE's Continuum of Dispute Resolution Processes and Practices (Continuum) reflects both the IDEA's required procedures and the "positive and constructive" approaches preferred by Congress.[7]

"Fortunately, the landscape of early dispute resolution options has evolved to offer most families and schools a range of relational-oriented, collaborative methods for resolving disagreements with processes that are aligned with the principles of procedural justice."

(Many readers will be familiar with the construct of CADRE's Continuum, since a similar model has been used for decades as a conceptual framework in the field of dispute resolution.) CADRE's Continuum (see the illustration on page 38 or visit http://www.directionservice.org/cadre/continuumnava.cfm) graphically depicts the range of dispute prevention




and resolution options that might be available within a state and arranges them into stages of intensity or levels of intervention. To help people understand how each option relates to others, the Continuum puts dimensions such as "rights-based" versus "interest-based" and "informal/flexible" versus "formal/fixed" at the bottom of the model.[8]

Knowing that stakeholders benefit most when their disagreements are addressed early, CADRE promotes a design approach in which an exemplary dispute resolution system has a variety of processes available along the Continuum earlier than the required mechanisms (Stage IV–Procedural Safeguards). A parent such as Gabriel's mother, who is worried about going to mediation or about hiring a qualified lawyer, could be helped by accessing a process that falls under Stage II (Disagreement) such as a case manager or telephone intermediary, or under Stage III (Conflict) such as an IEP facilitator or ombuds.

This Continuum doesn't represent an expanded system of procedural fairness by itself; how families and educators are informed of their options, including assistance in determining which approach is most appropriate to their circumstances, is important. If people are going to take advantage of early-intervention tools and options, they first must understand what those tools and options are all about, so educational materials are crucial. As they proceed, they also need good information and resources that can help them prepare effectively.

## Exemplary Practices and Future Avenues

CADRE has identified the characteristics of exemplary dispute resolution systems.[9] After close examination of high-performing special education dispute resolution systems in four states (Idaho, Oklahoma, Pennsylvania, and Wisconsin), CADRE's analysis identified the features common to these systems and the elements fundamental to their success. These four systems, while very different in design, management, and scope, share basic characteristics that every state system should endeavor to emulate.[10]

CADRE identified the following characteristics for an exemplary dispute resolution system:

- Active and meaningful engagement of a broadly representative group of system stakeholders in planning, promotion, evaluation, and improvement activities;
- Programmatic oversight guided by a clear and integrated vision and a management structure

that includes specific responsibility and authority for coordination and performance of the system;
- Financial and personnel resources adequate to support all system components;
- Protocols and activities related to personnel and practitioner standards, training, and performance;
- Transparency in the design, implementation, and evaluation of the system;
- Collection and use of evaluation data to guide continuing system-improvement efforts.

Of these critical features, many believe stakeholder involvement is the indispensable ingredient, consistent with the disability adage, "Nothing about us without us."

Restorative Justice may be the next contour in the landscape of special education dispute resolution. To address the increasingly challenging situation of children with disabilities being disproportionately suspended and removed from the classroom for disciplinary reasons, restorative practices, which include a range of approaches from informal framing of everyday conversations to much more formal circle processes, have promise for addressing a number of weighty educational concerns such as bullying and discipline. As evidence begins to emerge that Restorative Justice is effective, these practices, which seek to bring about a meaningful change in parties' perceptions and behaviors, may have a secure place on the Continuum.

> "How we educate and prepare all children, including children with disabilities, to live the fullest lives possible is really about dignity."

## A Future Filled with More Dignity

Special education is about dignity. How we educate and prepare all children, including children with disabilities, to live the fullest lives possible is really about dignity. But when we scan our local, national, and global landscapes, we notice that dignity is in short supply. In a world increasingly challenged by polarization, with striking political divisiveness and huge gaps between the haves and the have-nots, now more than ever we must find a more dignified approach to resolving differences. If we accept the proposition that special education is ultimately about self-determination, we must also believe that dignity should be embedded in all methods for resolving special education disputes: dignity within the process for each participant and certainly for the child.

Surely both Gabriel's mother and Gabriel deserve to know about all their options early on, perhaps when Elena first talks with school officials about whether a special education setting is best for her son. Indeed, if family members and educators develop a strong relationship early on, the bonds of that relationship will help resolve later problems. While school systems are required to provide a procedural safeguard notice to parents of children with disabilities, they are not required to inform them of their upstream optional dispute resolution opportunities. If formal procedures are not an attractive option for Elena, access to early and innovative processes to resolve disagreements before they evolve onto full-scale conflicts are essential to keeping working relationships intact and focusing on the child's educational needs.

The 21st century's heavy demands on education systems — and on those responsible for managing them — require new ways of thinking and new methods for resolving the disputes that inevitably arise in environments facing such stress. The contours of special education dispute resolution are changing and helping to meet these challenges, offering policy makers, school officials, parents, and all other stakeholders new ways to address conflict early and effectively. What we also need is continued bold leadership and a deeper understanding that we are all better off when we work, imagine, and create together — and hold dignity high. ■

**Philip Moses**, *who has been a dispute resolution professional since 1983, serves as director of CADRE, where he has worked since 1999. He has co-authored a number of CADRE publications and provided training, consultation, and technical assistance for a wide range of stakeholders throughout the United States. He can be reached at pmoses@directionservice.org or www.directionservice.org/cadre. The views expressed here are his own and do not necessarily represent the views of the US Department of Education.*

## Endnotes

1 See *Families and Schools: Resolving Disputes Through Mediation* (Consortium for Appropriate Dispute Resolution in Special Education ed., 2002) (discussing similar scenarios), *available at* http://www.eric.ed.gov/PDFS/ED471810.pdf.

2 "37th Annual Report to Congress on the Implementation of the *Individuals with Disabilities Education Act*, 2015," Office of Special Education and Rehabilitative Services, US Department of Education (December 2015).

3 Public Law 108-446, Part A, Section 601 (c)(1).

4 Public Law 108-446, Part A, Section 601 (c)(8).

5 Federal Register Volume 71, Number 156, page 46748 (Monday, August 14, 2006).

6 See Ed Feinberg, Jonathan Beyer & Philip Moses, *Beyond Mediation: Strategies for Appropriate Early Dispute Resolution in Special Education* (Consortium for Appropriate Dispute Resolution in Special Education ed., 2002).

7 See Ed Feinberg, Jonathan Beyer & Philip Moses, *Beyond Mediation: Strategies for Appropriate Early Dispute Resolution in Special Education* (Consortium for Appropriate Dispute Resolution in Special Education ed., 2002).

8 See Philip Moses & Timothy Hedeen, *Collaborating for our Children's Future: Mediation of Special Education Disputes*, ABA dispute Resolution Magazine (Summer 2012); Also Ed Feinberg, Jonathan Beyer & Philip Moses, *Beyond Mediation: Strategies for Appropriate Early Dispute Resolution in Special Education* (Consortium for Appropriate Dispute Resolution in Special Education ed., 2002).

9 CADRE avoids the phrase "best practices" — after all, is there ever really a "best" approach? Even if a "best practice" for designing a statewide system could be identified someplace, differences in states' population size, scope of conflict, and cultural imperatives would require a different blueprint elsewhere. What works in New Jersey, CADRE officials realize, may not work so well in Hawaii.

10 See *Fundamental Attributes of Exemplary State Special Education Dispute Resolution Systems*, Center for Appropriate Dispute Resolution in Special Education (April 2013).

ALLIANCE/CADRE

# Facilitated IEP Meetings:
# An Emerging Practice

## Introduction to IEP Facilitation

To help special education planning teams reach agreements, several State Education Agencies (SEAs) provide the option of facilitated Individualized Education Program (IEP) meetings. The use of externally facilitated IEP meetings is growing nationally. When relationships between parents and schools are strained, facilitated meetings may be beneficial.

**This guide:**

1) provides an introduction to IEP facilitation for parents and other family members to help orient them to this emerging practice, and
2) discusses the use of external IEP facilitators who are not directly affiliated with the team, or who may be independent of both the team and the school district.

Those states that use facilitated IEP meetings find that effective IEP meeting facilitation is essential to the IEP process. All IEP meetings benefit from skilled and capable facilitators who can assist the team in crafting agreements that lead to educational programs with beneficial outcomes for students with disabilities.

A facilitator helps keep members of the IEP team focused on the development of the IEP while addressing conflicts and disagreements that may arise during the meeting. At the meeting, the facilitator will use communication skills that create an environment in which the IEP team members can listen to each member's point of view and work together to complete the development of a high quality IEP.

CADRE
Consortium for Appropriate Dispute Resolution in Special Education

IDEAs that Work
U.S. Office of Special Education Programs

ALLIANCE
Technical Assistance ALLIANCE for Parent Centers

www.directionservice.org/cadre

www.taalliance.org

IEP teams have a number of options in terms of who facilitates the meeting. Typically, a member of the team facilitates the meeting but sometimes, a district representative with expert facilitation skills may be called in to help the team complete the IEP process. In some cases, a parent, trained parent advocate, or support person may facilitate the meeting. Some students may lead their own IEP meetings. When IEP teams reach an impasse or meetings are expected to be contentious, an independent, trained facilitator not affiliated with the team or school district may help guide the process.

While the use of IEP facilitation is a growing trend and has proven useful when conflicts exist or relationships are strained, the availability of IEP facilitation is still limited. No Federal regulations related to IEP facilitation exist. All Federal and State laws and regulations related to the development of IEPs still apply. Also, considerable variability exists related to this practice and those who serve as external IEP facilitators.

**IEP facilitation should not be confused with mediation. When Congress reauthorized the Individuals with Disabilities Education Act (IDEA), they added a requirement that SEAs must make mediation available whenever a request for a due process hearing has been filed.**

Mediation may be used to deal with a broader range of issues in special education than in an IEP meeting. Mediation is typically used when there is a significant disagreement that the parties are otherwise unable to resolve. A trained impartial mediator brings the parties together to work with each other to resolve a variety of disagreements, often including those unrelated to the student's IEP. (For more information, see Special Education Mediation: A Guide for Parents available at *www.directionservice.org/cadre*.)

**Since the reauthorization of the IDEA in 1997, families, school districts, parent training and information centers, community parent resource centers, disability groups and the U.S. Department of Education have fostered and supported the use of alternative dispute resolution to resolve issues in special education. The use of a facilitator at an IEP meeting is just one way to resolve conflicts that may arise.**

## Role of the External Facilitator

**The Facilitator:**

- Helps members of the IEP team focus on developing a satisfactory IEP. With the agreement of all team members, the facilitator may help create an overall agenda and assist in generating ground rules for the meeting.

- Guides the discussion by keeping the team's energy centered on student-focused questions such as "How is the student doing?", "Where does the student need to be a year from now?", and "In what ways can we help him or her to reach his/her goals and objectives?"

- Assists the team to resolve conflicts and disagreements that arise during the meeting. The facilitator, however, does not typically facilitate disputes unrelated to the IEP.

- Helps to maintain open communication among all members.

- Helps team members develop and ask clarifying questions about issues that may have come up in the past.

- Helps to keep team members on task and within the time allotted for the meeting.

- Maintains impartiality and does not take sides, place blame or determine if a particular decision is right or wrong.

- Does not impose a decision on the group.

> *"As a facilitator at facilitated IEP Meetings, it is my responsibility to help keep the lines of communication open among the IEP team members. Hopefully this will lead to the development of an appropriate Individualized Education Program for the student. At times this can be difficult because previous meetings may have been tense and stressful for all concerned. I use various facilitation skills in which I have been trained. I try to help the team establish ground rules for the meeting, aid participants in developing clarifying questions which often lead to mutual solutions and require members of the team to adhere to timelines for completion of the meeting. I do not make the final decisions; those are up to the IEP team and the family is always a key member of that team."*
>
> *IEP Facilitator*

## Benefits of a Facilitated IEP Meeting

**A Facilitated IEP Meeting:**

- Builds and improves relationships among the IEP team members and between parents and schools.
- Insures that the meeting is student-focused.
- Models effective communication and listening.
- Clarifies points of agreement and disagreement.
- Provides opportunities for team members to resolve conflicts if they arise.
- Encourages parents and professionals to identify new options to address unresolved problems.
- Costs less than more formal proceedings such as due process hearings.
- Is typically less stressful than formal proceedings.
- Supports better follow through and follow-up. Roles and responsibilities can be discussed and planned.
- Is the IEP meeting, and does not require a separate IEP meeting to formalize agreements that are reached.
- Supports all parties in participating fully.

> *"Both sides were heard and a good plan was worked out for the child."*
>
> *School Administrator*

## Family Preparation for a Facilitated IEP Meeting

**Families Can:**

- Prepare a written list of issues you want to discuss and questions you want to ask.

- Ask yourself three important questions:
  (1) Where is my son or daughter now in his/her educational performance?
  (2) Where do I want my son or daughter to be a year from now and how can those expectations be measured?
  (3) In what ways can the team help her or him to meet those expectations?

- Organize your documents. Record dates and notes on them. You may want to make copies of some of the information to share with the team and the facilitator.

- Be willing to listen carefully and consider possible solutions and options.

- Attend a workshop or training conducted by a parent center to learn about your role and responsibilities as a member of the IEP team.

- Call your parent training and information center or community parent resource center to talk with an information specialist. A staff member can answer your questions and help you prepare for the meeting. In some cases, a parent center staff member may attend the IEP meeting with you.

*(Contact information for reaching a parent center in your state can be found at the website for the Technical Assistance Alliance for Parent Centers: www.taalliance.org.)*

## Frequently Asked Questions about Facilitated IEPs

**It is important to remember that facilitated IEPs are the same as any other IEP meeting. The same expectations exist for compliance with legal regulations and any other requirements that govern the IEP process in your state. The only significant difference is the presence of a facilitator.**

**Is there any type of procedural notice that I will receive regarding a facilitated IEP meeting?**
Yes, as in any IEP meeting, the notification procedures found in the Individuals with Disabilities Education Act apply. Districts must give parents proper notice including the place and time where the meeting will occur, who will attend, and the purpose of the meeting. Beginning when the student is age 14, or younger, the notice should reflect that the meeting will include the development of a transition plan. Parents and the school district may bring an advocate or other people who have knowledge or special expertise regarding the child to the meeting.

**Who attends a facilitated IEP meeting?**
Members of the IEP team attend the facilitated IEP meeting.

**What happens if we don't finish the IEP at the first meeting?**
If an agreement about the IEP is not reached at the first meeting, another IEP meeting may be scheduled.

**Where and when is a facilitated IEP meeting held?**
The facilitated IEP meeting is usually scheduled by the school district and is held at a time and place that is mutually satisfactory for all required IEP team members.

*"The facilitator helped establish guidelines for the meeting which helped to relieve the tension, allowing people to be open and honest."*

*School Psychologist*

## Frequently Asked Questions about Facilitated IEPs

**How do I request a facilitated IEP meeting?**
While access to IEP facilitators is increasing, not all states or districts make IEP facilitation available to parents and educators. Parents interested in having an externally facilitated IEP meeting should begin by contacting their school district to explore their options and inquire about availability. Parents can also contact their state education agency or parent center for information about the availability and use of IEP meeting facilitators.

**Does the facilitator make decisions?**
No, the role of the facilitator is to facilitate communication among the IEP team members and assist them to develop an effective IEP for the student. The facilitator models effective communication skills and offers ways to address and resolve conflicts in the development of the IEP. Facilitators are trained in effective communication and ways to address and resolve conflicts. The members of the IEP team are the decision-makers.

**As a parent, do I pay for the facilitated IEP meeting?**
IEP facilitation is provided with no cost to parents. One of the objectives in using the facilitated IEP meeting is to reduce costs and avoid more adversarial procedures such as due process hearings.

**Is there a guaranteed right for families to have access to an outside IEP facilitator?**
No, external IEP facilitation is not required by IDEA. While many states are exploring the use of different appropriate dispute resolution procedures (including facilitated IEPs), not all states or school districts have a process in place for using external IEP facilitators.

**What if the facilitated IEP meeting does not result in an acceptable IEP?**
You have not forfeited your rights to other forms of dispute resolution. At times, the issues, disagreements and problems may not be resolved through a facilitated IEP meeting. You may want to consider mediation or another form of appropriate dispute resolution.

> *"With an impartial facilitator conducting the meeting, she kept us moving forward so we did not become stuck on personal issues.*
>
> *Parent*

ALLIANCE/CADRE

**I want to continue to be an advocate for my child. What organizations can I contact to remain current on my roles and responsibilities as a parent?**

The following is a list of organizations you can contact to learn more about appropriate dispute resolution strategies and ways to advocate more effectively for your son or daughter with a disability. Parents need to be knowledgeable about their rights and responsibilities. These organizations can provide you with helpful information on assisting your child with their educational programs.

**The Consortium for Appropriate Dispute Resolution in Special Education (CADRE)** serves as the National Center on Dispute Resolution and is funded by the Office of Special Education Programs (OSEP) at the U.S. Department of Education. CADRE supports parents, educators and administrators to benefit from the full continuum of conflict resolution options and to solve problems and disputes in less adversarial ways. You can reach CADRE at *www.directionservice.org/cadre* or call (541) 686-5060.

**The Technical Assistance Alliance for Parent Centers** serves as the National Technical Assistance Program for parent projects funded by OSEP at the U.S. Department of Education. The Alliance provides assistance for establishing, developing, and coordinating parent centers and connects families of children and youth with disabilities to the parent centers. You can reach the Alliance Project at *www.taalliance.org* or call toll-free 1-888-248-0822 for information about the parent center in your state.

**The National Dissemination Center for Children with Disabilities (NICHCY)** is the national information center that provides information on disabilities and disability related issues to families. NICHCY serves as the central repository of products developed by projects funded through OSEP. Anyone can use NICHCY services including families, educators, administrators, and students. NICHCY's special focus is on children and youth with disabilities, birth to 22 years. You can reach NICHCY at *www.nichcy.org* or call toll-free 1-800-695-0285.

---


**CADRE**
P.O. Box 51360
Eugene, OR 97405-0906
(541) 686-5060 Voice
(541) 686-5063 Fax
cadre@directionservice.org
www.directionservice.org/cadre

**ALLIANCE,**
**a project of PACER Center**
8161 Normandale Boulevard
Minneapolis, MN 55437-1044
(952) 838-9000 Voice • (953) 838-0190 TTY
(888) 248-0822 Toll-free • (952) 838-0199 Fax
www.pacer.org • pacer@pacer.org


**Contact Your Local Parent Center:**

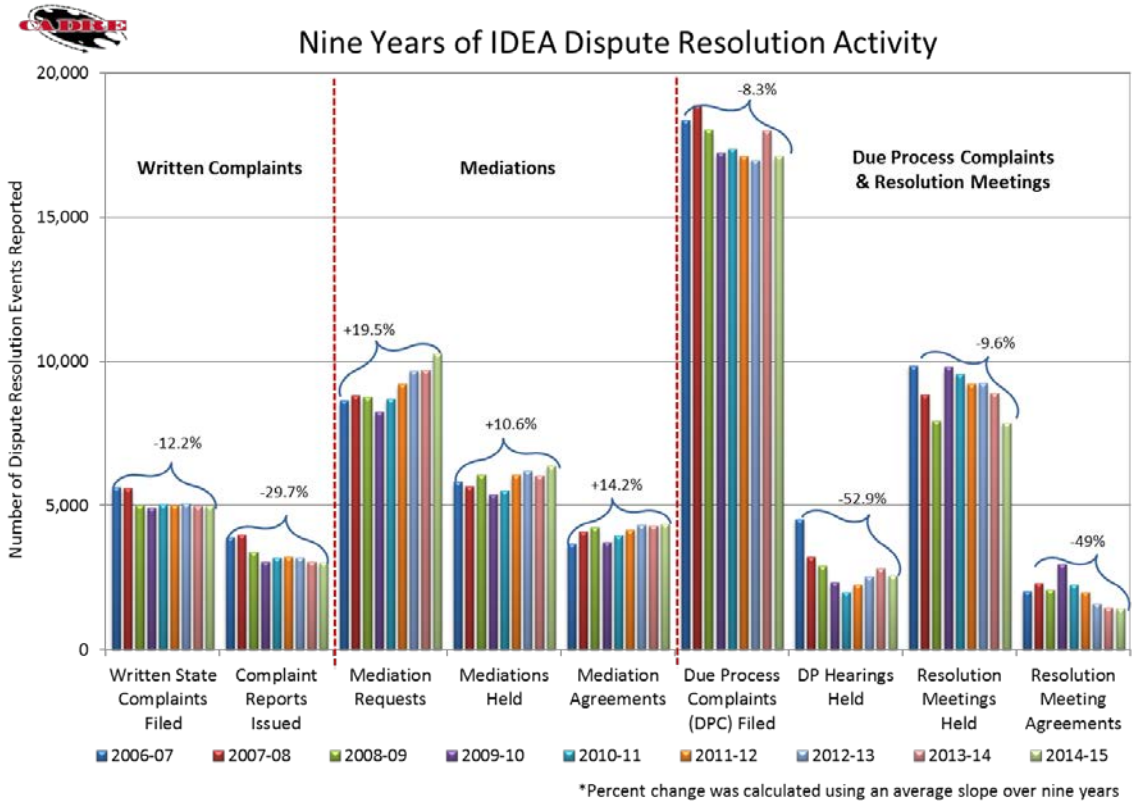
---


**Facilitated IEP Meetings: An Emerging Practice is a joint publication of The ALLIANCE and CADRE. This document was developed pursuant to cooperative agreement CFDA H326D98002 with the Office of Special Education Programs, United States Department of Education.**

# Trends in Dispute Resolution under the Individuals with Disabilities Education Act (IDEA)

*Updated October 2016*

States and entities receiving IDEA Part B funds are required to offer four processes to resolve disagreements arising under the IDEA: Written State Complaints, Mediation, and Due Process Complaints, which include Resolution Meetings. Since 2006, more adversarial processes (i.e., Written State Complaints, Due Process Complaints) have been on the decline, while optional, collaborative approaches to resolving disputes, such as Mediation and IEP facilitation, are on the rise.




Trends in the Use of Mandated IDEA Dispute Resolution Processes

- *Written State Complaints* and *Complaint Reports Issued* have remained relatively steady over the past 7 years. Activity is broad-based across states, as compared to Due Process Complaint activity.
- *Mediations Requested, Mediations Held,* and *Mediation Agreements* have increased during the last 9 years, due to a nearly 20% increase in due process-related mediation. The national average mediation agreement rate is 69%.
- *Due Process Complaints* filed continue to decline following a slight uptick in 2013-14 that was attributable to activity in 2 states. Overall, 7 states account for 80% of *Due Process Complaints* filed and 5 states account for 90% of *Due Process Hearings Held*.
- *Resolution Meetings Held* and *Resolution Meeting Agreements* have both declined since 2006-07, with the agreement rate dropping to 19% in 2014-15 from a peak of 30% in 2009-10.
- Most (about 85%) *Due Process Complaints* filed each year are withdrawn, dismissed, or resolved without a hearing (about 65%), or pending at the end of the school year (about 20%).

Support for More Collaborative Dispute Resolution Approaches

- Based on CADRE's examination of state practices, we believe that the use of collaborative approaches can lead to a decreased use of formal dispute resolution processes and may foster better school-family relationships.
    - Some states that offer facilitators for *Resolution Meetings* have agreement rates that are higher than the national average, reinforcing the belief that third party neutrals may improve the likelihood that potentially contentious meetings end in agreement.
    - Some states that offer facilitators for IEP meetings have experienced a decrease in the use of formal dispute resolution processes available under IDEA.
- States continue to make investments in early conflict resolution activities that are not required by the IDEA, such as local capacity building, stakeholder training, ombudspersons, advisory opinions, stakeholder councils, and other innovative approaches.
- 43 states and D.C. currently provide IEP facilitation, or are developing or exploring its use:
    - 36 of these currently offer IEP facilitation statewide or are piloting programs in select school districts (compared to 9 in 2005, and 29 in 2015).

United States Government Accountability Office

Report to Congressional Requesters

November 2019

# SPECIAL EDUCATION

# IDEA Dispute Resolution Activity in Selected States Varied Based on School Districts' Characteristics

GAO-20-22

November 2019

# SPECIAL EDUCATION

## IDEA Dispute Resolution Activity in Selected States Varied Based on School Districts' Characteristics

GAO Highlights

Highlights of GAO-20-22, a report to congressional requesters

## Why GAO Did This Study

Almost 7 million children aged 3 to 21 received special education services under Part B of the Individuals with Disabilities Education Act (IDEA) in school year 2016-17. IDEA contains options parents and school districts may use to address disputes that arise related to the education of a student with a disability. These options include mediation and due process complaints, which can be used by parents and school districts; and state complaints, which can be used by any organization or individual, including the child's parent, alleging an IDEA violation.

GAO was asked to review parents' use of IDEA dispute resolution options. This report examines (1) how often IDEA dispute resolution options are used, and whether use in selected states varies across school district-level socioeconomic or demographic characteristics; and (2) what challenges parents face in using IDEA dispute resolution options and how Education and selected states help facilitate parents' use of these options.

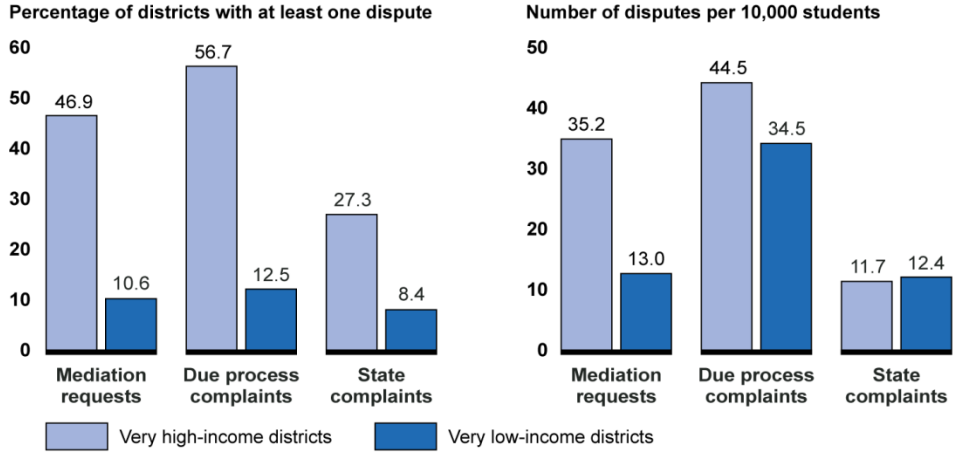
GAO reviewed publicly available data on dispute resolution at the state level and collected data at the school district level from five states—Massachusetts, Michigan, New Jersey, Ohio, and Pennsylvania—selected based on the number of disputes initiated and school district characteristics, among other factors. GAO also reviewed relevant federal laws, regulations, and Education and state documents; and interviewed Education officials, state officials, staff from organizations providing technical assistance in these five states, and other national advocacy organizations.

View GAO-20-22. For more information, contact Jacqueline M. Nowicki at (617) 788-0580 or nowickij@gao.gov.

## What GAO Found

In school year 2016-17, 35,142 special education disputes were filed nationwide, and in five selected states GAO reviewed, dispute resolution options varied across school districts with different socioeconomic and demographic characteristics. The Individuals with Disabilities Education Act (IDEA) provides parents several ways to file and resolve disputes about plans and services that school districts provide to students with disabilities. A greater proportion of very high-income school districts had dispute resolution activity as well as higher rates of dispute activity than very low-income districts in most of the five states GAO reviewed. GAO also found that in most of these states, a smaller proportion of predominately Black and/or Hispanic districts had dispute resolution activity compared to districts with fewer minority students; however, predominately Black and/or Hispanic districts generally had higher rates of such activity. Technical assistance providers and others told GAO that parents used dispute resolution most often for issues related to school decisions about evaluations, placement, services and supports, and discipline of their children.

**Percentage of School Districts with Dispute Resolution Activity and Rates of Activity in Five Selected States, by School District Income Level, School Year 2017-18**




Source: GAO analysis of dispute data provided by the five states and Department of Education's Common Core of Data. | GAO-20-22

Note: "Very high-income" districts are those in which 10 percent or fewer of students are eligible for free or reduced-price school lunch (FRPL). In "Very low-income" districts, 90 percent or more of students are eligible for FRPL.

Parents may face a variety of challenges in using IDEA dispute resolution, and the Department of Education and states provide several kinds of support that, in part, may address some of these challenges. Stakeholders cited challenges such as paying for attorneys and expert witnesses at a due process hearing, parents' reluctance to initiate disputes because they feel disadvantaged by the school district's knowledge and financial resources, and parents' lack of time off from work to attend due process hearings. Education and state agencies provide technical assistance to support parents' understanding of their rights under IDEA and to facilitate their use of dispute resolution options, for example, by providing informational documents and phone help lines to parents.

# Contents

Figures

## Abbreviations

| | |
|---|---|
| CADRE | Center for Appropriate Dispute Resolution in Special Education |
| CCD | Common Core of Data |
| Education | U.S. Department of Education |
| FAPE | free appropriate public education |
| FRPL | free or reduced-price lunch |
| HHS | U.S. Department of Health and Human Services |
| IDEA | Individuals with Disabilities Education Act |
| IEE | Independent Educational Evaluation |
| IEP | individualized education program |
| LEA | local educational agency |
| OSEP | Office of Special Education Programs |
| P&A | Protection and Advocacy |
| PTI | Parent Training and Information Center |
| SEA | state educational agency |
| SY | school year |

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

November 4, 2019

The Honorable Patty Murray
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Robert C. "Bobby" Scott
Chairman
Committee on Education and Labor
House of Representatives

During school year 2016-17, almost 7 million children aged 3 to 21 received special education services under Part B of the Individuals with Disabilities Education Act (IDEA), the primary federal special education law. Under IDEA, states must ensure that school districts make a free appropriate public education (FAPE) available to all children with disabilities who qualify for special education services. At times, parents and school districts disagree over whether the school district is meeting this obligation. IDEA requires states to make several dispute resolution options available through which districts and parents may resolve any disputes that arise about a child's eligibility for or receipt of special education services. These options include mediation, due process complaints, and state complaints filed with the state educational agency (SEA).[1]

There is a well-established link between racial and ethnic minorities and poverty, and studies have noted concerns about this segment of the population that falls at the intersection of poverty and minority status in schools and how this affects their access to quality education.[2] Our prior work has also discussed the association between poverty and race or ethnicity.[3] We have found that high schools with a relatively large

[1]We use "parents" throughout this report to include parents and legal guardians. We refer to "local educational agencies" (LEA) as "school districts" in this report.

[2]For example, U.S. Department of Education, Office for Civil Rights, 2013-2014 Civil Rights Data Collection: A First Look: Key Data Highlights on Equity and Opportunity Gaps in Our Nation's Public Schools (Issued June 7, 2016; Revised October 28, 2016).

[3]GAO, *K-12 Education: Better Use of Information Could Help Agencies Identify Disparities and Address Racial Discrimination*, GAO-16-345 (Washington, D.C.: Apr., 21, 2016).

proportion of students in poverty also tend to have a higher proportion of minority students, students with disabilities, and English learners.[4] In part based on these issues, you asked us to review parents' use of IDEA dispute resolution options. This report examines (1) how often IDEA dispute resolution options are used, and whether use in selected states varies across school district-level socioeconomic or demographic characteristics; and (2) what challenges parents face in using IDEA dispute resolution options and how Education and selected states help facilitate parents' use of these options.

To address our first objective, we obtained publicly available dispute resolution data at the national and state levels. To address how often dispute resolution options are used, we reviewed data from the Center for Appropriate Dispute Resolution in Special Education (CADRE).[5] We found CADRE's data to be reliable for the purposes of this report. In addition, to understand the reasons parents filed disputes, we interviewed staff from Education's Parent Training and Information Centers (PTI), Protection and Advocacy (P&A) agency staff, and SEA officials in each of our five selected states.[6] We also interviewed various national advocacy organizations representing parents and school districts.

To determine whether the use of dispute resolution options varied across school districts with different characteristics, we analyzed data on the

[4]GAO, *K-12 Education: Public High Schools with More Students in Poverty and Smaller Schools Provide Fewer Academic Offerings to Prepare for College*, GAO-19-8 (Washington, D.C.: Oct. 11, 2018).

[5]CADRE is funded by Education's Office of Special Education Programs (OSEP). CADRE produces reports on the use of dispute resolution options based on data collected by Education and produces informational materials. In addition, CADRE encourages the use of mediation, facilitation, and other collaborative processes as strategies for resolving disagreements between parents and schools about children's educational programs and support services. According to its website, CADRE also supports parents, educators, administrators, attorneys and advocates to benefit from the full continuum of dispute resolution options that can prevent and resolve conflict and ultimately lead to informed partnerships that focus on results for children and youth. For more information on CADRE, see: *https://www.cadreworks.org/*.

[6]PTIs are organizations funded by discretionary grants under Education under IDEA. They provide training and information to parents of children with disabilities. P&A agencies are funded by the U.S. Department of Health and Human Services and provide legal support to traditionally unserved or underserved populations to help them navigate the legal system to achieve resolution and to encourage systems change. P&As also provide information and referrals, as well as training and technical assistance to individuals with disabilities and their families, service providers, state legislators, and other policymakers.

number and types of dispute resolution options used from selected states at the school district level. We collected dispute data at the school district-level from five states—Massachusetts, Michigan, New Jersey, Ohio, and Pennsylvania. We selected these states based on a combination of factors, including the level of dispute activity within the state (that is, the number of mediations, due process complaints, and state complaints), the number of school districts in the state with highly homogenous student populations (to allow us to compare across school districts with different student populations), and states' ability to provide reliable school district-level data on disputes. To compare these homogeneous student populations we focused our analyses on school district income and race/ethnicity. We describe districts as "very low-income" if at least 90 percent of students were eligible for free or reduced-price school lunch and as "very high-income" if no more than 10 percent of students were eligible for free or reduced-price school lunch.[7] Similarly, we describe districts as "very low-minority" if no more than 10 percent of students are Black and/or Hispanic, and as "very high-minority" if at least 90 percent of students are Black and/or Hispanic.

We then matched the districts' dispute data to school district level socioeconomic, race and ethnicity, and population density data from the Department of Education's (Education) Common Core of Data (CCD), and analyzed whether the frequency of use or the types of dispute resolution options used varied across school districts with different characteristics. We determined that the dispute data from states and the CCD data were reliable for the purposes of this report. The results from our five states are not generalizable to all states.

For both research objectives, we reviewed relevant federal laws and regulations and Education documents. We also reviewed PTI and other Education funded technical assistance provider documents.

We interviewed Education officials, PTI, P&A, and advocacy organization staff, and SEA officials from the five states from which we collected data

[7]The Department of Agriculture's National School Lunch Program provides low-cost or free lunches to children in schools. Children are eligible for free lunches if their household income is below 130 percent of federal poverty guidelines or if they meet certain automatic eligibility criteria, such as eligibility for the Supplemental Nutrition Assistance Program or Temporary Assistance for Needy Families. Students are eligible for reduced-price lunches if their household income is between 130 percent and 185 percent of federal poverty guidelines. For example, the maximum household income for a family of four to qualify for free lunch benefits was $31,980 in school year 2017-18.

to understand the challenges parents face using dispute resolution options and what Education and the states do to help facilitate parents' use of these options. See appendix II for more information on our objectives, scope, and methodology.

We conducted this performance audit from June 2018 to November 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Background

## Dispute Resolution Options

Congress appropriated $12.8 billion in federal funds under Part B of IDEA for fiscal year 2019.[8] Under IDEA, Education awards funds to state educational agencies (SEA), which provide these funds to local educational agencies (LEA). SEAs also monitor Part B implementation by the school districts. As a condition of receiving IDEA funds, states are required to have policies and procedures in effect that are consistent with IDEA requirements, including requirements related to procedural safeguards and due process procedures. IDEA requires states to make dispute resolution options available,[9] which parents may use to resolve

[8]IDEA contains four parts: (1) Part A outlines IDEA's general provisions, including the purpose of IDEA and the definitions used throughout the statute; (2) Part B authorizes formula grants to assist states in providing special education and related services in the least restrictive environment to children with disabilities ages 3 through 21; (3) Part C authorizes formula grants to assist states in implementing and maintaining a system to provide early intervention services for infants and toddlers with disabilities birth through age 2 and their families; and, (4) Part D includes provisions related to, and funding for, discretionary grants to support state personnel development, technical assistance and dissemination, technology, and parent-training and information centers. The focus of this report is on students served by Part B of IDEA.

[9]We use the term "options" in this report to indicate the various dispute resolution procedures, i.e., mediation, due process complaints, and state complaints, which are available to parents under IDEA and its implementing regulations. The use of this term is not, however, meant to imply that each option is available to all individuals. For instance, a concerned citizen with no relationship to a child with disabilities may file a state complaint, but would not be able to file a due process complaint, because under IDEA only parents and LEAs may do so.

disagreements regarding a school district's decisions related to the identification, evaluation, and educational placement of their child with a disability, or the provision of a free appropriate public education (FAPE) to the child.[10] These options include:

- Mediation.[11] Mediation is a confidential, voluntary process in which a trained, qualified, and impartial mediator, paid for by the SEA, works with the parents and school district to try to reach an agreement about the IDEA-related issue in dispute. Mediations can be initiated by either the parent or the school district to resolve any dispute related to IDEA, including matters that arise before filing of a due process complaint. If agreement is reached through the mediation process, the parties must execute a legally binding agreement.
- Due process complaint.[12] A due process complaint is a request for a formal due process hearing. A due process hearing is conducted before a qualified and impartial hearing officer and involves presentation of evidence, sworn testimony, and cross-examination. It often involves attorneys and expert witnesses, and thus may be more costly than other dispute resolution options for all parties involved. Because a due process hearing is a formal proceeding, it may be more adversarial in nature than other dispute resolution options. Either party can appeal a hearing officer's decision by bringing a civil action in any state court of competent jurisdiction or in a U.S. district court.[13] Not all due process complaints result in a due process hearing. For example, some due process complaints may be withdrawn by the parents or not meet the requirements for a filing a complaint under IDEA regulations. In addition, in some cases, the parents and school district may resolve the complaint through alternative means, such as mediation.

[10]There are a total of 60 Part B grant recipients. Grant recipients include the 50 states, as well as American Samoa, the Bureau of Indian Education, the District of Columbia, the Federated States of Micronesia, Guam, the Northern Mariana Islands, Puerto Rico, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands. For purposes of this report all recipients are referred to as states. IDEA's mediation, due process, and state complaint procedures are available to parents under both Part B and Part C of IDEA.

[11]See 20 U.S.C. § 1415(e).

[12]See 20 U.S.C. § 1415(f).

[13]In some states, an appeal must be brought before the SEA before appealing to a state or federal court.

The 2004 IDEA reauthorization added the requirement for a resolution meeting to the due process complaint process to try to resolve the issues in a parent's due process complaint collaboratively before the parties may proceed to the formal and often costly due process complaint hearing procedure. A resolution meeting must take place within 15 days of a parent filing a due process complaint and before any due process hearing involving a hearing officer, unless both parties agree in writing to waive the meeting or agree to use the IDEA's mediation process.[14] Settlement agreements reached through resolution meetings must be in writing and are legally binding.

- State complaint.[15] An individual or an organization, including one from another state, may file a complaint with the SEA alleging that a public agency has violated a requirement of Part B of IDEA or its implementing regulations.[16] Once the SEA receives such a complaint, it must engage in specified procedures to resolve the complaint, including conducting an on-site investigation, if the SEA determines that it is necessary.[17] Generally, the SEA must issue a written decision within 60 calendar days unless exceptional circumstances warrant an extension or the parties agree to extend the timeline to engage in an alternative dispute resolution procedure. The SEA's written decision must include findings of fact and conclusions and the reasons for the SEA's final decision. The state's complaint procedures must include steps for effective implementation of the SEA's final decision, including any corrective actions to achieve compliance, if needed.

[14]20 U.S.C. § 1415(f)(1)(B)(i).

[15]See 34 C.F.R. §§ 300.151-300.153.

[16]34 C.F.R. §§ 300.151(a)(1), 300.153(b)(1). State complaints can be filed by organizations or individuals who are not the child's parents, including an organization or individual from another state, and can also be filed on behalf of a group of children to address systemic noncompliance by a school district.

[17]34 C.F.R. § 300.152.

IDEA also requires school districts to provide parents with a procedural safeguards notice, which explains all of the procedural safeguards available to them under IDEA.[18]

## Education and State Responsibilities under IDEA

Education's Office of Special Education Programs (OSEP) administers IDEA, and is responsible for data collection and monitoring, among other responsibilities.

- Data collection. Under IDEA, SEAs are required to annually report to Education data on the use of mediation and due process procedures.[19] Specifically, SEAs report data to OSEP, including the total number of:
  - mediation requests received,
  - mediations held,
  - mediation agreements reached (related to a due process complaint or not related to a due process complaint),
  - due process complaints filed,
  - resolution meetings held,
  - resolution meetings that result in a written settlement agreement, and
  - due process hearings conducted.

Each state also reports data on the timely resolution of state complaints and timely adjudication of due process complaints. According to

[18]20 U.S.C. § 1415(d). Among other procedural safeguards, IDEA requires that parents have the opportunity to examine all records related to their child and participate in meetings related to the identification, evaluation, and educational placement of their child, and the provision of a free appropriate public education to their child. Under IDEA parents also have the right to an independent educational evaluation of their child at public expense each time the school district conducts an evaluation of their child with which they disagree. In addition, IDEA requires school districts to provide written prior notice to parents within a reasonable time before the district proposes to initiate or change, or refuses to initiate or change upon a parent's request, the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. 20 U.S.C. § 1415(b)(1),(3). Education provides a model notice form that states may use.

[19]20 U.S.C. § 1418(a)(1)(F), (G), (H). IDEA specifically requires SEAs to report data on mediations and due process hearings. Education also requires SEAs to report data on the number of state complaints filed.

Education officials, all dispute resolution data are aggregated at the state level and Education does not collect dispute resolution data at the school or district level. According to Education officials, Education's collection of state-level dispute resolution data is consistent with the manner in which grant awards are made for Part B of IDEA. Because states are the grantees, it is the states that report data to Education.

- Education's monitoring. IDEA requires Education to monitor SEAs to ensure they meet program requirements.[20] According to Education officials, Education uses multiple methods to monitor states' implementation of IDEA, including reviewing data submitted by the states in their state performance plans and annual performance reports, conducting on-site monitoring visits to some states each year, and following up on concerns raised via customer calls and letters. Based on its monitoring and review of state dispute resolution data, among other information, Education is required under IDEA to annually determine whether each state meets the IDEA requirements or needs assistance or intervention.[21]
- Education's technical assistance. In addition to providing technical assistance to states, Education provides technical assistance to parents and the general public through its Parent Training and Information Centers (PTI) and CADRE. PTIs are designed to help parents of children with disabilities participate effectively in their children's education. Education's technical assistance covers a range of topics, including IDEA dispute resolution options.
- States' responsibilities. While Education monitors states, IDEA requires states to monitor and conduct enforcement activities in their school districts.[22] States are also responsible for investigating state complaints and producing reports with the results of their investigation, as well as providing mediators as needed to mediate disputes between school districts and parents. States may also provide other support and direct services such as training and technical assistance among other activities.

[20]20 U.S.C. § 1416(a)(1).

[21]20 U.S.C. § 1416(d).

[22]20 U.S.C. § 1416(a)(1)(C).

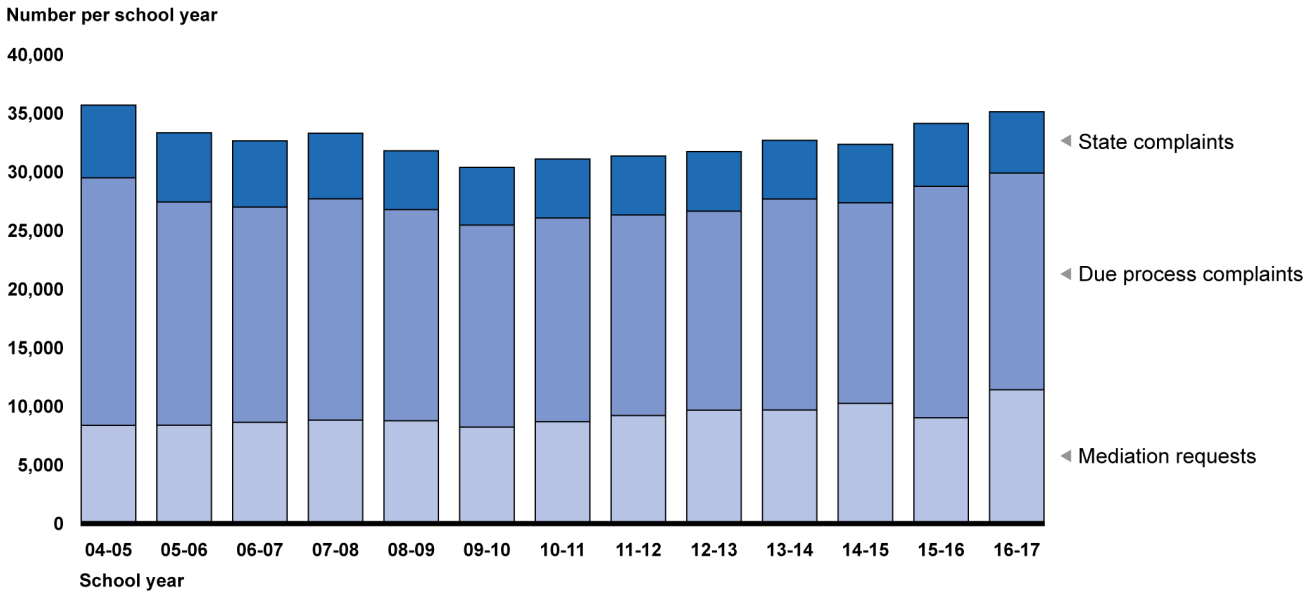
# Dispute Resolution Options Were Used About 35,000 Times Nationally and Use Varied Across School Districts with Different Characteristics

## Due Process Complaints Were the Most Commonly Used Dispute Resolution Option, and Disputes Were Most Frequently Related to Evaluations, Placement, Services and Supports, and Discipline

For the 6.8 million students from ages 3 to 21 who were served under IDEA Part B in school year 2016-17, there were a total of 35,142 mediation requests, due process complaints filed, and state complaints filed nationwide. Over about the last decade, this total decreased by about 2 percent, according to data from the Center for Appropriate Dispute Resolution in Special Education (CADRE). In addition, the mix of dispute resolution options used has changed. Since school year 2004-05, the number of due process complaints declined, while the number of mediation requests increased.[23] However, due process complaints still made up more than half the total number of dispute resolution options used in school year 2016-17 (see fig. 1).

[23]We used school year 2004-05 because it was the earliest year available and school year 2016-17 because it was the most recent year available in CADRE data. The number of due process complaints, mediation requests, and state complaints has fluctuated somewhat from school year 2004-05 to school year 2016-17.

**Figure 1: Use of Dispute Resolution Options, School Years 2004-05 to 2016-17**




Source: Individuals with Disabilities Education Act 618 data cited by the Center for Appropriate Dispute Resolution in Special Education. | GAO-20-22

Note: Because parents may use more than one dispute resolution option to try to resolve a single dispute, there may be overlap in the numbers of each option shown in this figure. Also, a single family may initiate more than one dispute during the course of a year, therefore, the number of disputes may not equal the number of families filing a dispute.

- Due process complaints. While the overall number of due process complaints has declined since school year 2004-05 (from 21,118 to 18,490) the percentage of fully adjudicated due process hearings (i.e., due process complaints that went all the way through the hearing process and a hearing officer rendered a decision) has declined more sharply.[24] In school year 2004-05, about 35 percent of all due process complaints were fully adjudicated; in school year 2016-17, 11 percent were fully adjudicated.[25]

[24]As a rate, this represents a decline from 31 to 27.2 due process complaints per 10,000 students served under IDEA. Due process complaints may be filed in one year and adjudicated in a subsequent year. According to Education officials, the number and percentage of fully adjudicated due process complaints were as of June 30 for each year, the end of the reporting period.

[25]GAO previously reported that the sharp decline in due process hearings was driven largely by a decline in hearings in three locations with relatively high rates of due process hearings: the District of Columbia, New York, and Puerto Rico. GAO, *Special Education: Improved Performance Measures Could Enhance Oversight of Dispute Resolution*, GAO-14-390 (Washington, D.C.: Aug. 25, 2014).

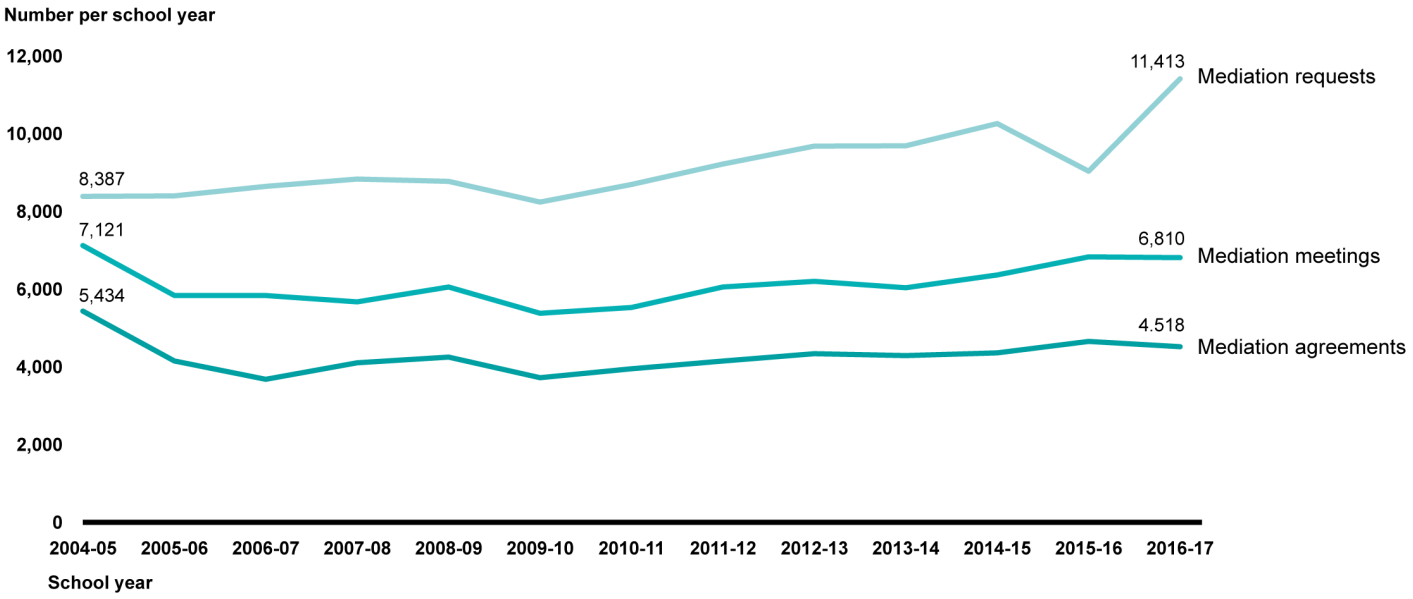
Due process complaints may not be fully adjudicated for several reasons. For example, complaints may be withdrawn by the filer, dismissed by the hearing officer, or resolved through other means, such as a resolution meeting or an agreement to try to resolve the dispute through mediation. CADRE's data show that resolution meetings were held less than half the time due process complaints were filed in 6 of the 12 school years between 2005-06, the first year resolution meetings were used, and 2016-17.[26] When resolution meetings did occur, they resulted in resolution agreements less than 30 percent of the time in 10 of these 12 years.

- Mediation. According to CADRE, mediation is viewed as less adversarial than due process hearings, in part, because parties work together to try to reach an agreement. CADRE also reports that mediation is generally believed to be less costly than due process hearings because it typically requires less time and may require less involvement from attorneys and other experts. The number of mediation requests increased from school year 2004-05 to 2016-17 as Education and the states encouraged dispute resolution options that stakeholders told us were less costly and confrontational. In school year 2016-17, there were 11,413 mediations requested, the largest number of requests from school year 2004-05 to 2016-17.[27] In addition, mediation requests resulted in mediation meetings at least 60 percent of the time in each of these school years. Those meetings resulted in agreements at least two-thirds of the time in every year but one (see fig. 2). Furthermore, more than half of the mediation meetings held stemmed from due process complaints that had been filed, which suggests that parties involved in the complaints may have been using mediation meetings to try to avoid a due process hearing.

[26]A resolution meeting would not take place if both parties agree to waive the meeting or agree to try to resolve the dispute through mediation.

[27]As a rate, this represents 16.8 mediation requests per 10,000 students served under IDEA, up from 12.3 in SY 2004-05.

**Figure 2: Number of Mediations Requested, Mediation Meetings, and Mediation Agreements, School Year 2004-05 to 2016-17**




Source: Individuals with Disabilities Education Act 618 data cited by the Center for Appropriate Dispute Resolution in Special Education. | GAO-20-22

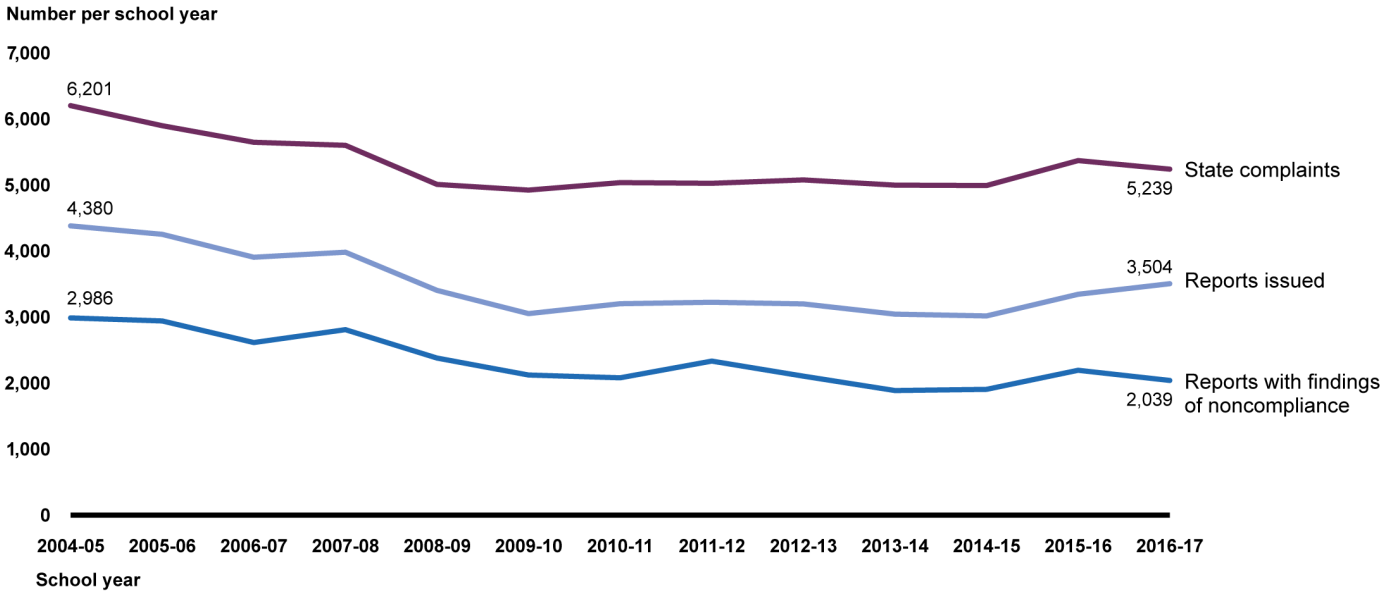
Note: A request for mediation may be withdrawn by the requester prior to the mediation meeting when, for example, the parties have reached an agreement prior to the formal meeting or one party refuses the mediation.

- State complaints. State complaints were the least commonly used dispute resolution option. There were 5,239 state complaints filed in school year 2016-17, down from 6,201 in school year 2004-05 (see fig. 3).[28] On average, from school year 2004-05 to 2016-17, approximately two-thirds of complaints filed resulted in the state issuing a report, and about two-thirds of those reports included findings of noncompliance with some aspect of IDEA on the part of the school district.[29] According to state officials we spoke with, a state that receives a complaint will issue a report unless the filer withdraws the complaint, the state determines that the complaint is not about an issue covered under IDEA, or the complaint is resolved through other means.

[28]As a rate, this represents 7.7 state complaints per 10,000 students served under IDEA, down from 9.1 in school year 2004-05.

[29]SEAs also issue a report outlining the complaint and the SEA's findings when it finds that the school district is in compliance with IDEA requirements.

**Figure 3: Number of State Complaints, State Reports Issued, and State Reports with Findings, School Years 2004-05 to 2016-17**




Source: Individuals with Disabilities Education Act 618 data cited by the Center for Appropriate Dispute Resolution in Special Education. | GAO-20-22

Note: In some cases, a state complaint does not result in a report. For example, the complaint may be withdrawn or the state may determine the issues raised in the complaint are not related to the Individuals with Disabilities Education Act (IDEA). Issued reports will only have findings of noncompliance if the state educational agency determines after its investigation that the school district is not in compliance with one or more IDEA requirements.

The rate at which all three dispute resolution options were used varied widely across states. Some states and territories had much higher rates of dispute resolution activity than others. In school year 2016-17, due process complaints were generally used at a higher rate nationwide than mediation requests and state complaints, according to CADRE data (27.2, 16.8, and 7.7 per 10,000 IDEA students served, respectively). However, the rate of due process complaints filed in states ranged from a high of 252.1 in the District of Columbia to a low of fewer than 1 per 10,000 IDEA students served in Nebraska, respectively.[30] Similarly, some states had much higher rates of mediation requests and state complaints filed than others.

[30]Two territories (American Samoa and the Northern Mariana Islands) reported no dispute resolution activity, including due process complaints, in school year 2016-17.

Within states, the mix of dispute resolution options used also varied. In some states, due process complaints were used much more frequently than mediation requests and state complaints, while other states saw mediation requests or state complaints used most frequently.

According to state officials, Parent Training and Information Center (PTI) staff, Protection and Advocacy (P&A) agency staff, and other stakeholders we interviewed, parents most commonly engage in IDEA dispute resolution because of concerns they have about the evaluations, placement, services and supports, and discipline related to the educational services their child receives. For example, a dispute related to placement may arise if a parent wants their child to spend more time in a regular education classroom as opposed to a self-contained classroom with only special education students. A parent might also object if a school district wants to place their child in an alternative school. On the other hand, some parents may seek an out-of-district placement for their child if they feel that more services will be available. A dispute over services may center on a parent asking for services for their child that the school district refuses to provide, or a parent believing that the school district is not providing services that are included in their child's individualized education program. Research we reviewed generally supported what stakeholders told us were the main causes of disputes, although discipline issues were not reported as frequently.[31]

Other issues that led to disputes less frequently, according to those we spoke with, included, lack of progress on the part of the student, parental

[31]For example, Schanding, et. al. found individualized education programs (IEP), evaluation, placement, and identification to be the top four issues identified in due process hearings (Schanding, T., et. al., *Analysis of Special Education Due Process Hearings in Texas. Sage Open. April-June 2017: 1-6.).* Blackwell and Blackwell reported development and content of IEPs, student placement, procedural safeguards, and evaluations were the most common issues addressed in due process hearings (Blackwell, W. and Blackwell, V.*, A Longitudinal Study of Special Education Due Process Hearings in Massachusetts: Issues, Representation, and Student Characteristics. Sage Open. January-March 2015: 1-11).* Cope-Kasten found IEP, service provision, evaluations, and placement to be the top issues addressed in due process hearings (Cope-Kasten, C., *Bidding (Fair)Well to Due Process: The Need for a Fairer Final Stage in Special Education Dispute Resolution. Journal of Law & Education, 2013, 423, 501-540).* And Mueller and Carranza found placement, IEP and program appropriateness, assessment and evaluation, and eligibility, followed by behavior to be the top issues (Mueller, T.G. and Carranza, F., *An Examination of Special Education Due Process Hearings, Journal of Disability Policy Studies, 22(3) 131-139)*.

participation in decision making, transition services, and other accommodations for students.[32]

## Dispute Resolution Activity Varied Based on the Income Level and Racial/Ethnic Characteristics of Districts in Selected States

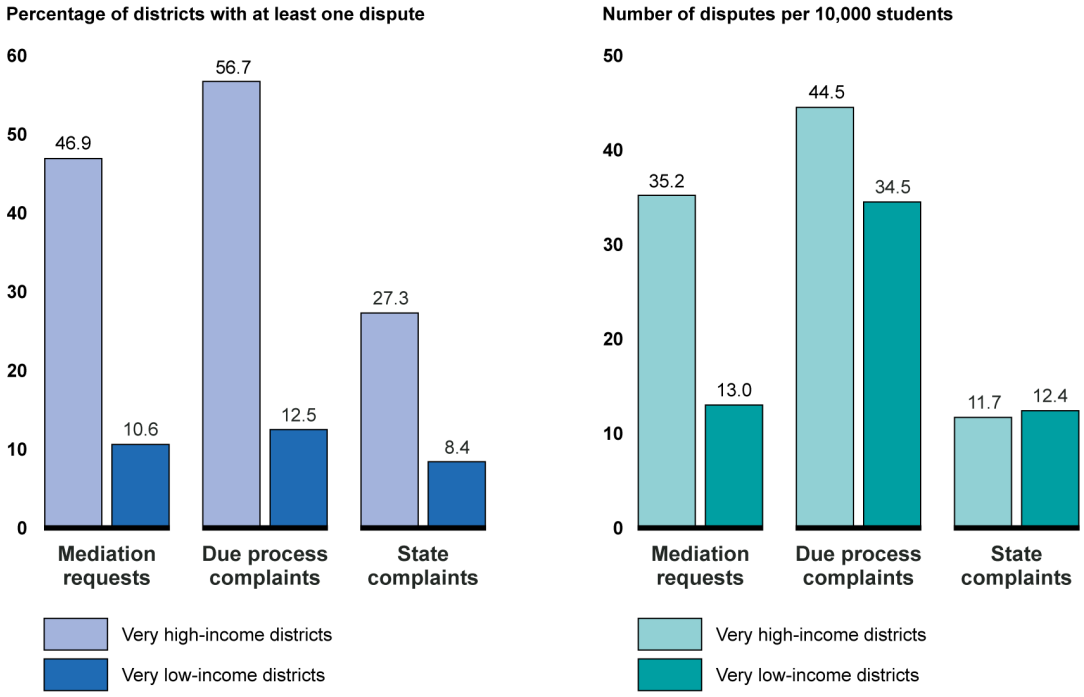
When we analyzed five states' dispute resolution data we found that dispute resolution activity varied based on districts' income levels.[33] In general, a greater proportion of very high-income districts had dispute resolution activity, and these districts also had higher rates of dispute resolution activity than very low-income districts (see fig. 4.)[34]

[32]Education officials told us that Education does not collect data on the causes of disputes or data related to hearing officer decisions in due process cases. However, Education officials told us that Education does collect data related to the outcome of expedited due process decisions (i.e., whether the hearing officer ordered a change in the student's placement). Expedited due process hearings involve complaints related to disciplinary matters.

[33]States provided data on the number of mediation requests, due process complaints, and state complaints by school district. We refer to districts in which 10 percent or fewer of the students were eligible for free or reduced-price school lunch as "very high-income" and districts in which 90 percent or more of the students were eligible for free or reduced-price school lunch as "very low-income." We refer to districts in which 10 percent or fewer of the students are Black and/or Hispanic as "very low-minority" and districts in which 90 percent or more of the students are Black and/or Hispanic as "very high-minority." See appendix III for a state-by-state analysis. We also conducted our analyses at the low-income and high-minority levels (75 to 100 percent) and the high-income and low-minority levels (0 to 25 percent). The results of these analyses show patterns similar to those at the 10/90 levels and are also available in appendix III.

[34]Education collects dispute resolution data at the state level. However, it does not collect data at the school district level and so cannot determine where in a state disputes are most frequently arising.

**Figure 4: Percentage of Districts across Five States with Dispute Resolution Activity and Rate of Dispute Resolution Activity, by District Income Level, School Year 2017-18**




Source: GAO analysis of dispute data provided by Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania, and the Department of Education's Common Core of Data. | GAO-20-22

Notes: We refer to districts in which 10 percent or less of the students were eligible for free or reduced-price school lunch as "very high-income" and districts in which 90 percent or more of the students were eligible for free or reduced-price school lunch as "very low-income." Dispute resolution data are from SY 2017-18; Common Core of Data are from SY 2016-17. In cases in which a state did not report data on free or reduced-price school lunch for SY 2016-17, we used data from a previous year.

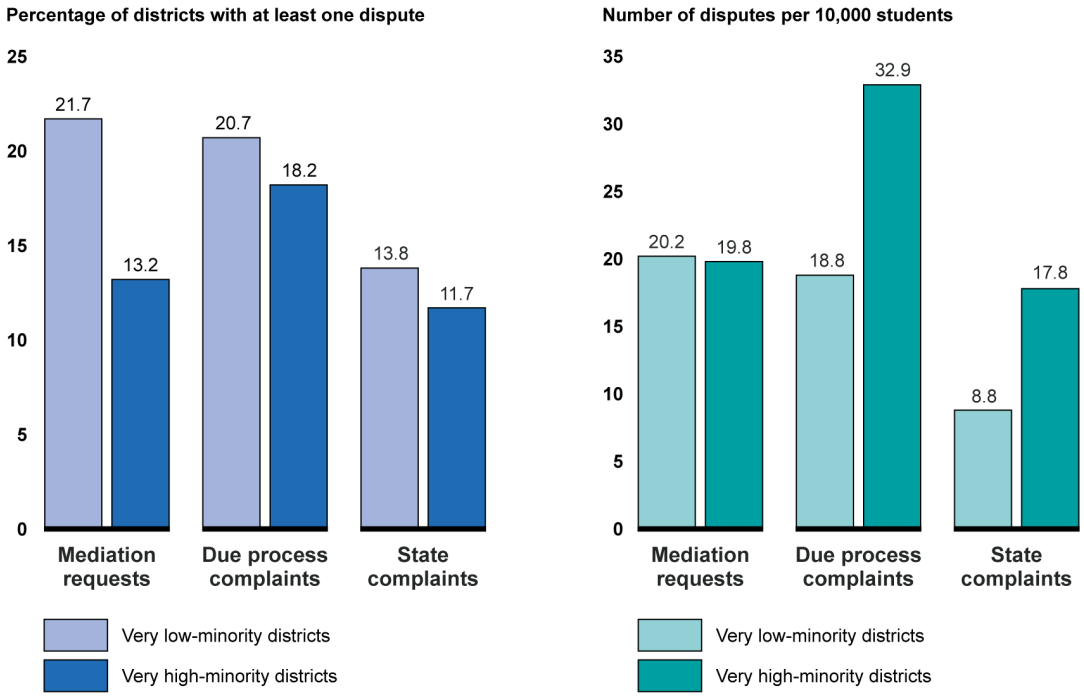
This pattern was mostly consistent for all three types of dispute resolution options. Specifically,

- Mediation requests and due process complaints: In all five states, a greater proportion of very high-income districts tended to have mediation or due process activity than very low-income districts. Similarly, very high-income districts generally had a higher rate of such activity than very low-income districts. (See app. III for data on the individual states.)
- State complaints: A greater proportion of very high-income districts had state complaint activity in four of the five states. In addition, very high-income districts also had a higher rate of state complaints

compared to very low-income districts in three of the five states.[35] (See app. III for data on the individual states.)

When we looked at districts' racial and/or ethnic characteristics in our five states, we found that a smaller proportion of very high-minority districts had dispute resolution activity than very low-minority districts, but generally had higher rates of activity (see fig. 5, and app. III for data by state).[36]

**Figure 5: Percentage of Districts Across Five States with Dispute Resolution Activity and Rate of Dispute Resolution Activity, by District Racial and/or Ethnic Characteristics, School Year 2017-18**




Source: GAO analysis of dispute data provided by Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania, and the Department of Education's Common Core of Data. | GAO-20-22

[35]Although very high-income districts had a higher rate of state complaints in three of the five states, in one state, the rate of state complaints was much higher in very low-income districts. This resulted in a slightly higher overall rate of state complaints in very low-income states districts when data from all five states were combined.

[36]Results of our percentage and rate analyses also varied between urban, suburban, and rural districts; however, in most states a higher percentage of suburban districts had at least one mediation request, due process complaint, and state complaint, than urban or rural districts (see app. III for more information on urban, suburban, and rural districts).

Notes: We refer to districts in which 10 percent or less of the students were Black and/or Hispanic as "very low-minority" and districts in which 90 percent or more of the students were Black and/or Hispanic as "very high-minority." Dispute resolution data are from SY 2017-18; Common Core of Data are from SY 2016-17.

We also analyzed the results of initiated disputes by districts' income level and racial and/or ethnic characteristics—meaning the percentage of disputes that resulted in a meeting or an agreement for mediation requests, adjudication for due process complaints, and a report with findings for state complaints. As shown in tables 1-3, there was no consistent pattern in the results of dispute activity for all three types of disputes across districts with different income levels and racial/ethnic characteristics.

**Table 1: Number of Mediation Requests, Percent of Requests Resulting in Meeting, and Percent of Meetings Resulting in an Agreement in Five States, School Year 2017-18**

| | Number of mediation requests | Percent of requests that resulted in a meeting | Percent of meetings that resulted in an agreements |
|---|---|---|---|
| **By income** | | | |
| Very high-income districts | 392 | 61 | 71 |
| Very low-income districts | 121 | 66 | 78 |
| **By race or ethnicity** | | | |
| Very low-minority districts | 898 | 66 | 77 |
| Very high-minority districts | 161 | 64 | 81 |

Source: GAO analysis of data from Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania, and the Department of Education's Common Core of Data. | GAO-20-22

Notes: We refer to districts in which 10 percent or less of the students were eligible for free or reduced-price school lunch as "very high-income" and districts in which 90 percent or more of the students were eligible for free or reduced-price school lunch as "very low-income." We refer to districts in which 10 percent or less of the students were Black and/or Hispanic as "very low-minority" and districts in which 90 percent or more of the students were Black and/or Hispanic as "very high-minority." Data on mediation requests are from SY 2017-18; Common Core of Data are from SY 2016-17. In cases in which a state did not report data on free or reduced-price school lunch for SY 2016-17, we used data from a previous year.

**Table 2: Number of Due Process Complaints Filed and Percent of Complaints That Were Fully Adjudicated in Five States, School Year 2017-18**

| | Number of due process complaints filed | Percent of complaints that went all the way through adjudication hearing process |
|---|---|---|
| **By income** | | |
| Very high-income districts | 495 | 3 |
| Very low-income districts | 320 | 5 |
| **By race or ethnicity** | | |
| Very low-minority districts | 835 | 3 |
| Very high-minority districts | 267 | 7 |

Source: GAO analysis of data from Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania, and the Department of Education's Common Core of Data. | GAO-20-22

Notes: We refer to districts in which 10 percent or less of the students were eligible for free or reduced-price school lunch as "very high-income" and districts in which 90 percent or more of the students were eligible for free or reduced-price school lunch as "very low-income." We refer to districts in which 10 percent or less of the students were Black and/or Hispanic as "very low-minority" and districts in which 90 percent or more of the students were Black and/or Hispanic as "very high-minority." Data on due process complaints are from SY 2017-18; Common Core of Data are from SY 2016-17. In cases in which a state did not report data on free or reduced-price school lunch for SY 2016-17, we used data from a previous year.

**Table 3: Number of State Complaints Filed and Percent of Complaints That Resulted in a Report with Findings in Five States, School Year 2017-18**

| | Number of state complaints filed | Percent of complaints resulting in a report | Percent of reports containing findings of noncompliance | Percent of all complaints that resulted in a report with findings of noncompliance |
|---|---|---|---|---|
| **By Income** | | | | |
| Very high-income districts | 130 | 62 | 53 | 32 |
| Very low-income districts | 115 | 57 | 85 | 49 |
| **By race or ethnicity** | | | | |
| Very low minority districts | 390 | 67 | 58 | 39 |
| Very high-minority districts | 145 | 48 | 77 | 37 |

Source: GAO analysis of data from Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania, and the Department of Education's Common Core of Data. | GAO-20-22

Notes: We refer to districts in which 10 percent or less of the students were eligible for free or reduced-price school lunch as "very high-income" and districts in which 90 percent or more of the students were eligible for free or reduced-price school lunch as "very low-income." We refer to districts in which 10 percent or less of the students were Black and/or Hispanic as "very low-minority" and districts in which 90 percent or more of the students were Black and/or Hispanic as "very high-minority." Data on state complaints are from SY 2017-18; Common Core of Data are from SY 2016-17. In cases in which a state did not report data on free or reduced-price school lunch for SY 2016-17, we used data from a previous year. In some cases, a state complaint does not result in a report. For example, the complaint may be withdrawn or the state may determine the issues raised in the complaint are not related to the Individuals with Disabilities Education Act (IDEA). The data in this table indicate that complaints from very high-income districts and very low-minority districts in the five states resulted in a report in a higher percentage of cases than those from very low-income and

predominately Black and/or Hispanic districts. However, in cases in which a report was issued, it contained findings of noncompliance in a higher percentage of complaints from very-low income and predominately Black and/or Hispanic districts.

# Education and State Efforts Are Designed to Help Parents Who May Face Challenges

## Parents May Face Challenges Using IDEA Dispute Resolution Options

Stakeholders we interviewed identified several types of challenges parents may face in using IDEA dispute resolution options, such as the cost of attorneys for due process hearings.

### Cost and Availability of Attorneys and Expert Witnesses

While parents may hire an attorney to help with dispute resolution, stakeholders consistently told us the cost of attorneys and expert witnesses was a significant barrier to parents' ability to use the due process complaint option in particular—especially low-income parents. Parents are not required to use an attorney at a due process hearing, but stakeholders told us that prevailing is difficult without legal representation and expert witnesses to testify on the parents' behalf.[37]

An Education official told us that school districts may provide a list of free and low-cost attorneys to parents. According to stakeholders we interviewed, in some cases, Protection and Advocacy agencies (P&A)—which are funded by the Department of Health and Human Services (HHS)—provide legal services to parents at no cost, or refer clients to other attorneys. In general, however, very few attorneys will work on a

[37]Education officials told us that Education does not collect national data on the outcomes of parents with legal representation in due process hearings; however, states post due process decisions on their websites and some researchers have reviewed individual due process decisions to analyze outcomes. Research we reviewed shows that school districts prevail in the majority of cases, even when parents are represented by an attorney, but that parents' chances of prevailing are even smaller in cases in which they do not have an attorney. Schanding, T., et. al., *Analysis of Special Education Due Process Hearings in Texas.* Sage Open, April-June 2017: 1-6.; Blackwell, W. and Blackwell, V., *A Longitudinal Study of Special Education Due Process Hearings in Massachusetts: Issues, Representation, and Student Characteristics.* Sage Open, January-March 2015: 1-11; Cope-Kasten, C., *Bidding (Fair) Well to Due Process: The Need for a Fairer Final Stage in Special Education Dispute Resolution.* Journal of Law & Education, Summer 2013, Vol. 42, No. 3, 501-540.

pro-bono basis to handle IDEA dispute cases, according to stakeholders. Further, under IDEA, a court may award parents reasonable attorney's fees and costs if they prevail in a due process hearing; however, parents cannot recoup expert witness costs regardless of the outcome.[38] Also, if parents do not prevail at a due process hearing, they may be responsible for the school district's legal costs in addition to their own, which can be a disincentive to going through a hearing.[39] Education regulations allow parents to be accompanied and advised in due process hearings by individuals with special knowledge about children with disabilities, and according to IDEA regulations, whether those individuals can legally represent them is determined by state law. According to Education officials, bringing non-attorneys to support them may help reduce costs. However, the school district is likely to still have legal representation.

The amount of direct legal services P&As provide varies across, and even within, states. P&A staff we interviewed in one state told us that their attorneys in one city spend most of their time assessing parents' cases, reviewing documentation, giving advice, answering questions, and conducting training for parents, but little time participating in actual hearings. In contrast, the P&A attorneys we spoke with in another city in the same state said that 50 to 70 percent of their work is direct representation at hearings. Staff at other P&As we spoke with work primarily on cases that fall within their priority areas or cases they believe will have wide-reaching or systemic effects.

The availability of attorneys can also be a challenge. According to stakeholders we interviewed, some areas, particularly rural ones, may have fewer available attorneys. However, Education officials told us that school districts in rural or sparsely populated areas may be more likely to have an incentive to resolve a dispute before it goes to a due process hearing because smaller school districts are unlikely to have in-house attorneys, and hiring an attorney is expensive.

[38]20 U.S.C. § 1415(i)(3(B). In 2006, the U.S. Supreme Court ruled that this statutory provision prohibits parents who prevail in actions against a school district from recovering fees for experts that they hire to assist them in IDEA proceedings. Arlington Central School District v. Murphy, 548 U.S. 291 (2006).

[39]Under certain circumstances, a court may award attorney's fees to school districts when, for instance, it determines the parent's complaint to be frivolous or that the complaint was intended to cause unnecessary delay or needlessly increase the cost of litigation. 20 U.S.C. § 1415(i)(3)(B)(i)(II), (III).

## Other Factors Affecting Parents' Willingness and Ability to Initiate Dispute Resolution

According to stakeholders, many parents feel they are at a disadvantage in a conflict with the school district due to an imbalance of power and so may be reluctant to engage in dispute resolution and take on the associated costs when they feel they are unlikely to prevail. Stakeholders also said that some parents who live in less populated and more rural areas may be reluctant to initiate dispute resolution out of concern for their privacy and because, for example, in these communities they and their children are more likely to see the teachers, principals, and district officials at the grocery store or at church, which may be awkward.[40] Furthermore, these families may have no other educational options in the area to turn to if the dispute becomes too contentious. In some cultures, according to stakeholders, it is less common to challenge an authority figure, such as a school district official or teacher. In addition, according to stakeholders, parents may fear the school district will retaliate against their children or them if the parents initiate a dispute, such as by threatening to stop providing services. Stakeholders also told us that they are aware of cases in which the school district has called the state's child protective services agency in what they believe was retaliation for parents bringing a dispute against the district, and that parents who are undocumented may fear that raising a dispute might result in unwanted attention from immigration officials. Further, according to stakeholders, some parents face other challenges, such as language barriers, difficulty obtaining time off from work, transportation, or internet access that could affect their use of IDEA dispute resolution and their ability to take advantage of resources, such as IDEA dispute resolution training, workshops, and online information.

## Education Funds Technical Assistance Providers That Explain Dispute Resolution Processes to Parents

Education and SEAs provide technical assistance to support parents' understanding of their rights under IDEA and to facilitate their use of dispute resolution options. According to stakeholders we interviewed, the area of special education in general and the federal law, IDEA, are complicated, and parents often do not understand the IDEA dispute resolution process.

Education supports several efforts to help parents understand and use dispute resolution options afforded to them under IDEA.

[40]Staff from an association representing school superintendents provided an alternative explanation, noting that, in general, parents in smaller communities and rural areas tend to file fewer due process complaints because these communities are more tight-knit, so disputes can be resolved in less adversarial ways.

- Procedural safeguards notice. To receive IDEA funds, states must ensure school districts notify parents of their rights under IDEA, including the right to initiate dispute resolution about the educational services provided to their child. School districts must provide a notice, referred to as a procedural safeguards notice, to parents that explains their rights under IDEA.[41] According to Education officials, to help states meet their IDEA requirements, the agency developed a model notice, which states can, but are not required to, have school districts use to notify parents of their rights under IDEA. States may also develop their own procedural safeguards notice as long as it includes all the information required under IDEA.[42]
- Technical assistance. Education established and funds different types of technical assistance centers that provide information, training, workshops, and advocate services, and collect and disseminate data on dispute resolution, among other activities. Specifically, Education officials reported that Education provided about $21 million to the network of Parent Training and Information Centers (PTI), about $2.9 million to the network of Community Parent Resource Centers, and $750,000 to CADRE in fiscal year 2019.[43] In addition, Education's technical assistance centers collaborate with P&As in some cases.[44] Further, P&A staff we interviewed in some of our selected states told us they conduct trainings for advocates to attend meetings with parents, other attorneys working on special education issues,

[41]The procedural safeguards notice must be provided to parents only one time each school year, except that a copy also must be given to the parents upon initial referral or parental request for evaluation, upon receipt of the first state complaint and receipt of the first due process complaint in a school year, in accordance with the discipline procedures, and upon request by a parent. 20 U.S.C. § 1415(d)(1)(A), 34 C.F.R. § 300.504(a).

[42]Education officials told us that states are not required to submit their procedural safeguards notice to OSEP for review, and OSEP does not routinely review states' notices. However, OSEP will generally review a state's procedural safeguards notice or portions of the notice at the request of the state or when concerns are raised by stakeholders, including parents, school districts, or others.

[43]Each state has at least one PTI. Community Parent Resource Centers provide services similar to PTIs, but stakeholders told us the resource centers tend to focus on more targeted populations or specific geographic regions of a state. Unlike PTIs, not all states have a Community Parent Resource Center and these centers receive less funding from Education overall. Education funds additional technical assistance centers related to IDEA, such as the IDEA Data Center and the Parent Technical Assistance Center (PTAC).

[44]Protection and Advocacy agencies are funded by the HHS, and work at the state level to assist individuals with disabilities on a range of issues, including IDEA. P&As provide technical assistance, training, information, and referrals, in addition to legal support and other services to their clients.

community organizations and agencies, and parents. Education officials told us that, in the past, the agency has facilitated meetings between PTIs and P&As, to improve collaboration between these organizations. According to Education officials, these meetings resulted in informal agreements between PTIs and P&As.

In addition, Education's Center for Parent Information and Resources, the national technical assistance center to the PTIs, provides resources on its website to help parents learn about their rights and the procedural safeguards notice they receive from schools. For example, the center's website contains an explanation of the procedural safeguards notice and online training on procedural safeguards, among other issues. The website also provides contact information for the PTI(s) in each state.[45] Further, CADRE, part of Education's technical assistance and dissemination network, has developed concise, easy-to-read materials that it distributes to parent centers and others to help them understand the procedural safeguards and how to resolve disputes with school districts.

Stakeholders we interviewed told us that parents often do not understand IDEA dispute resolution procedures, but that PTI staff are available to explain them, discuss the procedural safeguards notice, and offer other assistance at no cost to the parents. According to stakeholders, the IDEA procedural safeguards notice is usually a lengthy document that uses complex, legal language and that parents say the notice is hard to understand.[46] Education officials told us their model notice is complex in part because it must reflect all the applicable provisions of the IDEA statute and regulations. To help parents understand the notice and their dispute resolution options, the PTIs in our selected states offer a variety of assistance, such as staffing telephone helplines, meeting with parents in person, offering workshops and training for parents, and developing or making available easy-to-read documents and other resources. PTI staff can also attend mediation meetings with parents and help parents write

[45]This website also provides contact information for the Community Parent Resource Centers.

[46]We previously reported on Education's efforts, required by IDEA (20 U.S.C. § 1417(e)), to publish model forms to help states streamline the process of preparing IEPs and comply with parent notice requirements. See GAO, *Special Education: State and Local-Imposed Requirements Complicate Federal Efforts to Reduce Administrative Burden*, GAO-16-25 (Washington, D.C.: Jan. 8, 2016).

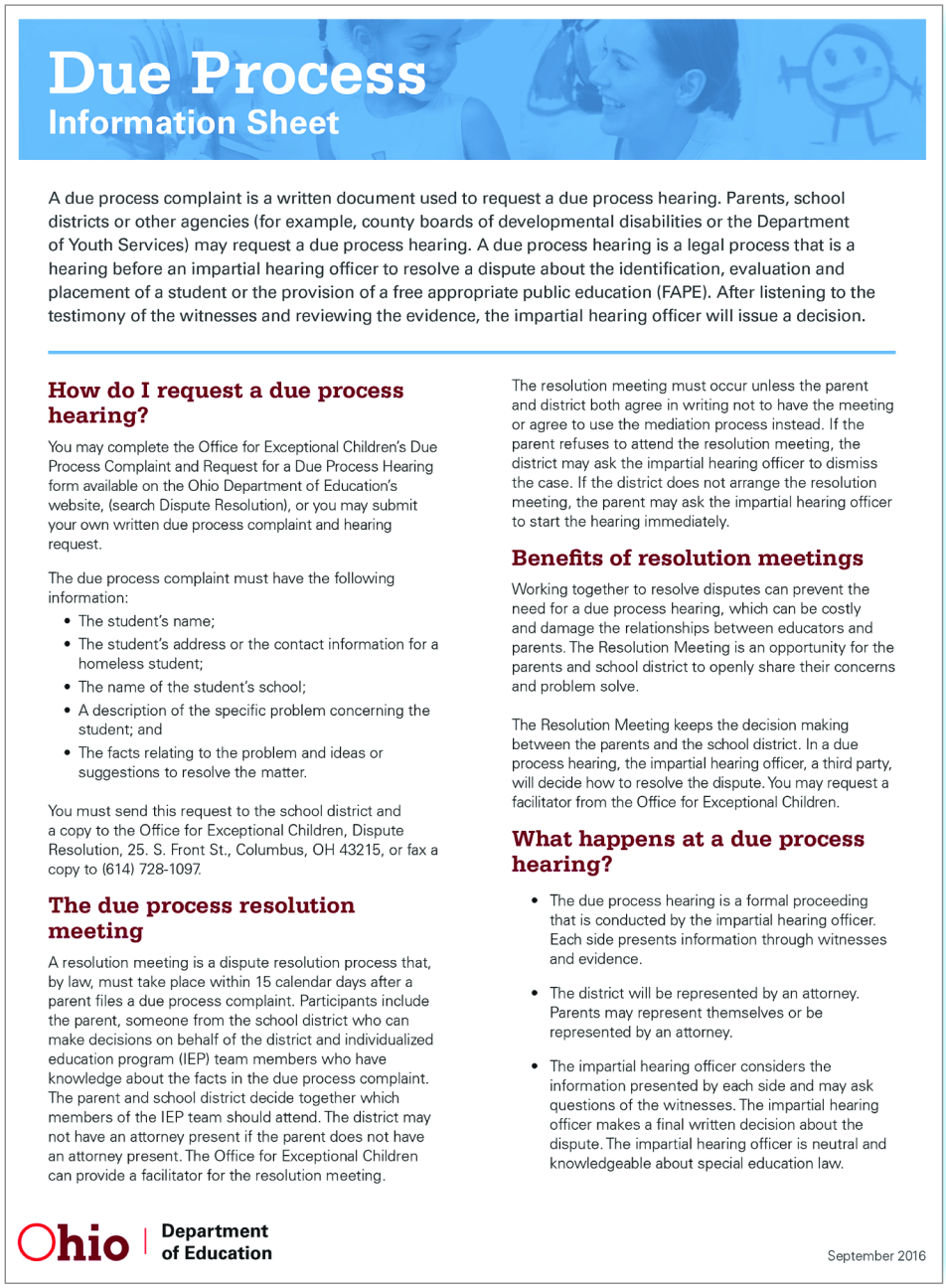
state complaints, including parents for whom English is not their first language. In addition, PTI staff told us they try to help specific populations, including parents who are not native English speakers, understand and navigate the dispute process. In some cases, PTI staff will attend mediation meetings with or provide interpreters for non-English speaking parents.[47] PTI staff are also available to help parents who have lower levels of formal education or who have disabilities, which stakeholders identified as other factors that could affect parents' use of dispute resolution options.

## States Also Provide Technical Assistance and Training to Help Parents Use Dispute Resolution Options

Our five selected states provide technical assistance and training to help parents understand and use dispute resolution options, including how to file a state complaint. State officials in some of our selected states said they make available plain language documents that can supplement the legally required procedural safeguards notice. For example, all of the states created a parents' rights handbook and several have one- or two-page documents describing the IDEA dispute resolution processes that they make available on the state's public website (see fig. 6 for an example of such a document). In addition, the states we contacted post information about IDEA on their websites in multiple languages. For example, one state's parents' rights handbook is available in English and 11 other languages. Regarding the cost of due process hearings discussed earlier, one state we contacted provides information about free and low-cost services along with the state's parents' rights booklet, and several states include contact information for the PTIs and sometimes P&As in their booklet.

[47]While PTIs may at times provide interpreters, Education stated that doing so is the responsibility of the school district, not the PTI.

**Figure 6: Example of Information Document Related to Dispute Resolution Available on State Websites**



# Due Process
## Information Sheet

A due process complaint is a written document used to request a due process hearing. Parents, school districts or other agencies (for example, county boards of developmental disabilities or the Department of Youth Services) may request a due process hearing. A due process hearing is a legal process that is a hearing before an impartial hearing officer to resolve a dispute about the identification, evaluation and placement of a student or the provision of a free appropriate public education (FAPE). After listening to the testimony of the witnesses and reviewing the evidence, the impartial hearing officer will issue a decision.

### How do I request a due process hearing?

You may complete the Office for Exceptional Children's Due Process Complaint and Request for a Due Process Hearing form available on the Ohio Department of Education's website, (search Dispute Resolution), or you may submit your own written due process complaint and hearing request.

The due process complaint must have the following information:

- The student's name;
- The student's address or the contact information for a homeless student;
- The name of the student's school;
- A description of the specific problem concerning the student; and
- The facts relating to the problem and ideas or suggestions to resolve the matter.

You must send this request to the school district and a copy to the Office for Exceptional Children, Dispute Resolution, 25. S. Front St., Columbus, OH 43215, or fax a copy to (614) 728-1097.

### The due process resolution meeting

A resolution meeting is a dispute resolution process that, by law, must take place within 15 calendar days after a parent files a due process complaint. Participants include the parent, someone from the school district who can make decisions on behalf of the district and individualized education program (IEP) team members who have knowledge about the facts in the due process complaint. The parent and school district decide together which members of the IEP team should attend. The district may not have an attorney present if the parent does not have an attorney present. The Office for Exceptional Children can provide a facilitator for the resolution meeting.

The resolution meeting must occur unless the parent and district both agree in writing not to have the meeting or agree to use the mediation process instead. If the parent refuses to attend the resolution meeting, the district may ask the impartial hearing officer to dismiss the case. If the district does not arrange the resolution meeting, the parent may ask the impartial hearing officer to start the hearing immediately.

### Benefits of resolution meetings

Working together to resolve disputes can prevent the need for a due process hearing, which can be costly and damage the relationships between educators and parents. The Resolution Meeting is an opportunity for the parents and school district to openly share their concerns and problem solve.

The Resolution Meeting keeps the decision making between the parents and the school district. In a due process hearing, the impartial hearing officer, a third party, will decide how to resolve the dispute. You may request a facilitator from the Office for Exceptional Children.

### What happens at a due process hearing?

- The due process hearing is a formal proceeding that is conducted by the impartial hearing officer. Each side presents information through witnesses and evidence.
- The district will be represented by an attorney. Parents may represent themselves or be represented by an attorney.
- The impartial hearing officer considers the information presented by each side and may ask questions of the witnesses. The impartial hearing officer makes a final written decision about the dispute. The impartial hearing officer is neutral and knowledgeable about special education law.

Ohio | Department of Education

September 2016

Source: Ohio Department of Education. | GAO-20-22

State officials we interviewed also said their states offer telephone helplines that parents can call with questions about their dispute resolution options and the processes involved. Some state officials told us they have staff available by phone to explain the dispute options to parents, including to parents who do not speak English or have lower levels of formal education. One state has a phone line that connects parents to an early resolution specialist who will try to help parents resolve the dispute before a formal complaint becomes necessary. Officials in one state told us that the state has installed voice interpretation technology for its helpline so that parents who need assistance with hearing or speaking can communicate with staff. Some states also employ staff who can serve as interpreters to better assist non-English speaking parents. Officials in some states told us that staff answering the helpline are available to answer questions about dispute resolution documents for parents who have difficulty reading. In addition, some of the states we contacted said they made requesting mediation and/or filing state complaints easier by posting the required initiation forms on their websites. According to staff from one state, after the state posted its state complaint form online, the number of complaints doubled in 5 years.

Further, some of our selected states provide training and technical assistance to school districts, parent advocate groups, and parents related to accessing IDEA dispute options. One of our selected states uses 16 regional support teams to provide training and technical assistance to school districts. Another state conducts parent training jointly with the Education-funded PTI in the state. We have previously reported on other efforts some states have taken to help parents understand their dispute rights and reduce the need for parents to initiate formal disputes. For example, some states have offered conflict resolution skills training to school district staff and parents, and support facilitated IEP meetings, among other initiatives.[48]

## Agency Comments and Our Evaluation

We provided a draft of this product to the Department of Education for review and comment. We received written comments from Education, which are reproduced in appendix I. Education also provided technical comments that we have incorporated as appropriate.

[48]GAO, *Special Education: Improved Performance Measures Could Enhance Oversight of Dispute Resolution*, GAO-14-390 (Washington, D.C.: Aug. 25, 2014).

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of Education, and other interested parties. In addition, the report will be available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (617) 788-0580 or nowickij@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Jacqueline M. Nowicki, Director
Education, Workforce, and Income Security Issues

# Appendix I: Comments from the Department of Education

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

OCT 15 2019

THE ASSISTANT SECRETARY

Ms. Jacqueline M. Nowicki, Director
Education, Workforce, and Income Security Issues
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Ms. Nowicki:

The U.S. Department of Education's (Department's) Office of Special Education and Rehabilitative Services has reviewed the U.S. Government Accountability Office's (GAO's) draft report titled "*Special Education--IDEA Dispute Resolution Activity in Selected States Varied Based on School Districts' Characteristics*" (GAO-20-22). The draft GAO report contains no recommendations to the Department, but we would like to express our appreciation to GAO for a careful examination, in several States, of the important dispute resolution provisions of the Individuals with Disabilities Education Act (IDEA).

Special education due process has been a matter of continuing interest to Congress and GAO, as reflected in GAO's prior work in this area, e.g., GAO-03-897: "*SPECIAL EDUCATION--Numbers of Formal Disputes Are Generally Low and States Are Using Mediation and Other Strategies to Resolve Conflicts*" (September 9, 2003). In 2014, GAO reported that from 2004 through 2012, the number of due process hearings, a formal dispute resolution method and a key indicator of serious disputes between parents and school districts under IDEA, substantially decreased nationwide; please see GAO-14-390: *SPECIAL EDUCATION--Improved Performance Measures Could Enhance Oversight of Dispute Resolution*. (Published August 25, 2014; publicly released September 24, 2014).

Notably, while IDEA dispute resolution activities, ranging from resolution meetings to litigation in State or Federal district courts are not under the control of the Department, we monitor States on their implementation of IDEA dispute resolution requirements. The Department's grantees under both Parts B and C of IDEA are the States, and we collect data from, and monitor the implementation by States regarding dispute resolution, as noted on page 6 of the draft GAO report.

The draft GAO report and the data, which have their basis in the IDEA Section 618 collections, indicate that the breadth of IDEA dispute resolution options work and are being implemented consistent with the statute. Resolution meetings can provide a timely, early avenue for ending disputes. Due process complaints are frequently resolved through mediation. Mediation has resulted in agreements in roughly two-thirds of disputes, and mediation, as GAO notes, is less time-consuming and less costly than more formal procedures. It is, however, vital that the full range of IDEA due process options for parents be maintained.

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-2600
www.ed.gov
*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

We appreciate the opportunity to review the draft GAO report and have provided technical comments.

Sincerely,

Johnny W. Collett

# Appendix II: Objectives, Scope, and Methodology

This report examines the use of dispute resolution options available under the Individuals with Disabilities Education Act (IDEA). In particular, this report examines (1) how often IDEA dispute resolution options are used, and whether use in selected states varies across school district-level socioeconomic or demographic characteristics; and (2) what challenges parents face in using IDEA dispute resolution options and how Education and selected states help facilitate parents' use of these options.

To address our first objective, we obtained publicly available dispute resolution data at the national and state levels and collected and analyzed data on the number and types of dispute resolution options used from selected states at the school district level. To address how often dispute resolution options are used, we reviewed and analyzed publicly available data from the Center for Appropriate Dispute Resolution in Special Education (CADRE) from school years 2004-05 to 2016-17, the most recent data available when we conducted our analysis. We assessed the reliability of these data by interviewing knowledgeable CADRE staff and comparing CADRE data to other publicly available data. In addition, we interviewed staff at Parent Training and Information Centers (PTI) funded by the Department of Education (Education) and Protection and Advocacy (P&A) agencies funded by the Department of Health and Human Services, as well as state educational agency (SEA) officials in our five selected states to determine the reasons parents use dispute resolution. We also interviewed various national organizations that advocate for parents and local educational agencies (LEA) and SEAs.

To determine whether the use of dispute resolution options varied by socioeconomic or racial and/or ethnic characteristics, we analyzed dispute resolution data we collected at the LEA level from five states for school year 2017-18, the most recent data available at the time of our analysis. We selected these states—Massachusetts, Michigan, New Jersey, Ohio, and Pennsylvania—based on a combination of criteria including the amount of dispute activity within the state (that is, the number of mediations, due process complaints, and state complaints); the large number of LEAs in the state with highly homogenous student populations to allow us to compare across LEAs with different student populations; the large number of IDEA-eligible students in the state; and the states' ability to provide reliable LEA level data on disputes. We used Education's Common Core of Data (CCD) to categorize each LEA in our selected states based on (1) income level, as measured by the

percentage of students eligible for free or reduced-price school lunch;[1] (2) racial and/or ethnic makeup, as measured by the percentage of Black and/or Hispanic students; and (3) population density, as categorized by CCD. We used Education's school year 2016-17 CCD data, which was the most recent data available at the time of our analysis. In some cases, states had not reported 2016-17 free or reduced-price school lunch data to CCD so we used CCD data from a previous year. We assessed the reliability of the CCD data by (1) reviewing existing information about the data and the system that produced them and (2) reviewing data reliability assessments of the data from other recent GAO reports. We assessed the reliability of dispute resolution data provided by the states by (1) performing electronic testing of required data elements, (2) conducting interviews with knowledgeable agency officials and reviewing written responses to data reliability questions, and (3) reviewing existing information about the data and systems that produced them, where available. We determined that the CCD and data collected from the states were sufficiently reliable for the purposes of this report.

We matched the LEA-level dispute data provided by our states to the LEA-level socioeconomic, race/ethnicity, and population density data from CCD to determine whether the frequency of use of dispute resolution options or the types of options used varied across LEAs with different characteristics. Because our analyses are at the LEA level, and not the individual student or family level, it is impossible to know with certainty whether the families using the dispute resolution options in our school districts match the categorization of the districts themselves. To address this concern to the greatest extent possible, we report on LEAs that are highly homogenous. These districts are those in which:

- 90 percent or more of the students were eligible for free or reduced-price school lunch (very low-income districts) compared to districts in which 10 percent or fewer of the students were eligible (very high-income districts), and

[1]The Department of Agriculture's National School Lunch Program provides low-cost or free lunches to children in schools. Children are eligible for free lunches if their household income is below 130 percent of federal poverty guidelines or if they meet certain automatic eligibility criteria, such as eligibility for the Supplemental Nutrition Assistance Program or Temporary Assistance for Needy Families. Students are eligible for reduced-price lunches if their household income is between 130 percent and 185 percent of federal poverty guidelines. For example, the maximum household income for a family of four to qualify for free lunch benefits was $31,980 in school year 2017-18.

- 90 percent or more of the students were Black and/or Hispanic (very high-minority districts) compared to districts in which 10 percent or fewer of the students were Black and/or Hispanic (very low-minority districts).

We conducted two separate analyses on the combined data. We analyzed and compared:

1. the percentage of all the "very low" districts in our data that had dispute resolution activity to the percentage of all the "very high" districts in our data with dispute resolution activity, as measured by whether the district had one or more mediation requests, due process complaints, or state complaints. We also conducted this analysis to compare the percentages of urban, suburban, and rural districts with dispute resolution activity.
2. the rate of dispute resolution activity in our "very low" districts and our "very high" districts, as measured by the number of mediation requests, due process complaints, and state complaints per 10,000 students served under IDEA. We also conducted this analysis for urban, suburban, and rural districts.

This first analysis compared the percentages of school districts with different income and racial and/or ethnic characteristics that had at least one mediation request, due process complaint, or state complaint. In essence, it shows the differences in whether there is any dispute resolution activity in districts with different income and racial and/or ethnic characteristics, in our selected states. Because our analysis counts districts in which a single dispute resolution was initiated in the same manner as those with more activity, it is not potentially skewed by individual districts that may have unusually high or low levels of dispute resolution activity. To supplement this analysis, our second analysis compares the rate of dispute activity in these types of districts, which shows the magnitude of the various types of dispute resolution activity.

Although we use this 90-10 threshold in the body of the report, we also conducted these analyses for districts where 75 percent or more of students were eligible for free or reduced-price lunch and 25 percent or fewer were not eligible. Similarly, we conducted our race/ethnicity analyses at this same level as well. These additional analyses can be found in appendix III. The results from our five states are not generalizable to all states.

To address both research objectives, we reviewed relevant federal laws and regulations. We also reviewed Education documents, including its

model Notice of Procedural Safeguards, PTI and CADRE documents, and relevant literature related to challenges parents face using dispute resolution.

In addition, we interviewed Education officials about challenges families face in using dispute resolution options and Education's efforts to assist families. We also interviewed PTI, P&A, and advocacy organization staff, and SEA officials from the five states from which we collected data.

We conducted this performance audit from June 2018 to November 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix III: Additional Data Tables

This appendix contains tables that show data based on analyses we conducted using dispute resolution data collected from five states–Massachusetts, Michigan, New Jersey, Ohio, and Pennsylvania–for school year 2017-18, and the Department of Education's Common Core of Data for school year 2016-17. In some cases, states did not report free or reduced-price school lunch data for school year 2016-17. In those cases, we used the most recent year for which the state reported those data. The total number of local educational agencies and the total number of students served in our income analysis and our race/ethnicity analysis are slightly different.

Table 4: Number of Local Educational Agencies (LEA), Very High-Income LEAs, and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18

Table 5: Number of Local Educational Agencies (LEA), Very Low-Income LEAs, and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18

Table 6: Students Receiving Special Education Services, Students Served in Very High-Income Local Educational Agencies (LEA), and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18

Table 7: Students Receiving Special Education Services, Students Served in Very Low-Income Local Educational Agencies (LEA) and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18

Table 8: Number of Local Educational Agencies (LEA), Very Low-Minority LEAs, and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18

Table 9: Number of Local Educational Agencies (LEA), Very High-Minority LEAs, and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18

Table 10: Students Receiving Special Education Services, Students Served in Very Low-Minority Local Educational Agencies (LEA) and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18

**Table 4: Number of Local Educational Agencies (LEA), Very High-Income LEAs, and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18**

| | | Total number of LEAs | Number of LEAs <=10 percent FRPL | Percentage of total LEAs in each state <=10 percent FRPL | Number of LEAs <=10 percent FRPL with at least one dispute resolution option used |
|---|---|---|---|---|---|
| Mediations requested | Total | 3,452 | 275 | 8 | 129 |
| | MA | 397 | 56 | 14 | 40 |
| | MI | 873 | 18 | 2 | 3 |
| | NJ | 618 | 145 | 24 | 60 |
| | OH | 896 | 34 | 4 | 15 |
| | PA | 668 | 22 | 3 | 11 |
| Due process complaints filed | Total | 3,452 | 275 | 8 | 156 |
| | MA | 397 | 56 | 14 | 36 |
| | MI | 873 | 18 | 2 | 3 |
| | NJ | 618 | 145 | 24 | 93 |
| | OH | 896 | 34 | 4 | 13 |
| | PA | 668 | 22 | 3 | 11 |
| State complaints filed | Total | 3,452 | 275 | 8 | 75 |
| | MA | 397 | 56 | 14 | 24 |
| | MI | 873 | 18 | 2 | 9 |
| | NJ | 618 | 145 | 24 | 28 |
| | OH | 896 | 34 | 4 | 7 |
| | PA | 668 | 22 | 3 | 7 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by income level, as measured by percentage of students eligible for free or reduced-price school lunch (FRPL), rely on CCD data from SY 2016-17, and in some cases prior years.

**Table 5: Number of Local Educational Agencies (LEA), Very Low-Income LEAs, and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18**

| | | Total number of LEAs | Number of LEAs >=90 percent FRPL | Percentage of total LEAs in each state >=90 percent FRPL | Number of LEAs >=90 percent FRPL with at least one dispute resolution option used |
|---|---|---|---|---|---|
| Mediations requested | Total | 3,452 | 368 | 11 | 39 |
| | MA | 397 | 10 | 3 | 4 |
| | MI | 873 | 90 | 10 | 14 |
| | NJ | 618 | 22 | 4 | 3 |
| | OH | 896 | 135 | 15 | 8 |
| | PA | 668 | 111 | 17 | 10 |
| Due process complaints filed | Total | 3,452 | 368 | 11 | 46 |
| | MA | 397 | 10 | 3 | 2 |
| | MI | 873 | 90 | 10 | 0 |
| | NJ | 618 | 22 | 4 | 3 |
| | OH | 896 | 135 | 15 | 6 |
| | PA | 668 | 111 | 17 | 35 |
| State complaints filed | Total | 3,452 | 368 | 11 | 31 |
| | MA | 397 | 10 | 3 | 6 |
| | MI | 873 | 90 | 10 | 6 |
| | NJ | 618 | 22 | 4 | 1 |
| | OH | 896 | 135 | 15 | 7 |
| | PA | 668 | 111 | 17 | 11 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by income level, as measured by percentage of students eligible for free or reduced-price school lunch (FRPL), rely on CCD data from SY 2016-17, and in some cases prior years.

**Table 6: Students Receiving Special Education Services, Students Served in Very High-Income Local Educational Agencies (LEA), and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18**

| | | Total number of students receiving special education services | Number of students receiving special education services in LEAs <=10 percent FRPL | Percentage of total students in each state that are in LEAs <=10 percent FRPL | Number of dispute resolutions initiated in LEAs<=10 percent FRPL, by state |
|---|---|---|---|---|---|
| Mediations requested | Total | 1,156,264 | 111,313 | 10 | 392 |
| | MA | 170,044 | 20,065 | 12 | 199 |
| | MI | 197,538 | 6,623 | 3 | 4 |
| | NJ | 230,977 | 44,004 | 19 | 120 |
| | OH | 252,966 | 24,054 | 10 | 35 |
| | PA | 304,739 | 16,567 | 5 | 34 |
| Due process complaints filed | Total | 1,156,264 | 111,313 | 10 | 495 |
| | MA | 170,044 | 20,065 | 12 | 117 |
| | MI | 197,538 | 6,623 | 3 | 4 |
| | NJ | 230,977 | 44,004 | 19 | 309 |
| | OH | 252,966 | 24,054 | 10 | 21 |
| | PA | 304,739 | 16,567 | 5 | 44 |
| State complaints filed | Total | 1,156,264 | 111,313 | 10 | 130 |
| | MA | 170,044 | 20,065 | 12 | 39 |
| | MI | 197,538 | 6,623 | 3 | 16 |
| | NJ | 230,977 | 44,004 | 19 | 47 |
| | OH | 252,966 | 24,054 | 10 | 17 |
| | PA | 304,739 | 16,567 | 5 | 11 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by income level, as measured by percentage of students eligible for free or reduced-price school lunch (FRPL), rely on CCD data from SY 2016-17, and in some cases prior years.

**Table 7: Students Receiving Special Education Services, Students Served in Very Low-Income Local Educational Agencies (LEA) and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18**

| | | Total number of students receiving special education services | Number of students receiving special education services in LEAs >=90 percent FRPL | Percentage of total students in each state that are in LEAs >=90 percent FRPL | Number of dispute resolutions initiated in LEAs >=90 percent FRPL, by state |
|---|---|---|---|---|---|
| Mediations requested | Total | 1,156,264 | 92,770 | 8 | 121 |
| | MA | 170,044 | 7,625 | 4 | 18 |
| | MI | 197,538 | 5,727 | 3 | 19 |
| | NJ | 230,977 | 4,576 | 2 | 10 |
| | OH | 252,966 | 15,833 | 6 | 10 |
| | PA | 304,739 | 59,009 | 19 | 64 |
| Due process complaints filed | Total | 1,156,264 | 92,770 | 8 | 320 |
| | MA | 170,044 | 7,625 | 4 | 8 |
| | MI | 197,538 | 5,727 | 3 | 0 |
| | NJ | 230,977 | 4,576 | 2 | 14 |
| | OH | 252,966 | 15,833 | 6 | 8 |
| | PA | 304,739 | 59,009 | 19 | 290 |
| State complaints filed | Total | 1,156,264 | 92,770 | 8 | 115 |
| | MA | 170,044 | 7,625 | 4 | 35 |
| | MI | 197,538 | 5,727 | 3 | 13 |
| | NJ | 230,977 | 4,576 | 2 | 3 |
| | OH | 252,966 | 15,833 | 6 | 7 |
| | PA | 304,739 | 59,009 | 19 | 57 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by income level, as measured by percentage of students eligible for free or reduced-price school lunch (FRPL), rely on CCD data from SY 2016-17, and in some cases prior years.

**Table 8: Number of Local Educational Agencies (LEA), Very Low-Minority LEAs, and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18**

| | | Total number of LEAs | Number of LEAs <=10 percent B/H | Percentage of total LEAs in each state <=10 percent B/H | Number of LEAs <=10 percent B/H with at least one dispute resolution option used |
|---|---|---|---|---|---|
| Mediations requested | Total | 3,592 | 1,695 | 47 | 367 |
| | MA | 404 | 227 | 56 | 128 |
| | MI | 872 | 438 | 50 | 49 |
| | NJ | 631 | 162 | 26 | 50 |
| | OH | 968 | 498 | 51 | 67 |
| | PA | 717 | 370 | 52 | 73 |
| Due process complaints filed | Total | 3,592 | 1,695 | 47 | 351 |
| | MA | 404 | 227 | 56 | 99 |
| | MI | 872 | 438 | 50 | 17 |
| | NJ | 631 | 162 | 26 | 76 |
| | OH | 968 | 498 | 51 | 49 |
| | PA | 717 | 370 | 52 | 110 |
| State complaints filed | Total | 3,592 | 1,695 | 47 | 234 |
| | MA | 404 | 227 | 56 | 95 |
| | MI | 872 | 438 | 50 | 37 |
| | NJ | 631 | 162 | 26 | 24 |
| | OH | 968 | 498 | 51 | 35 |
| | PA | 717 | 370 | 52 | 43 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by race and ethnicity, as measured by percentage of Black and/or Hispanic (B/H) students, rely on CCD data from SY 2016-17.

**Table 9: Number of Local Educational Agencies (LEA), Very High-Minority LEAs, and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18**

| | | Total number of LEAs | Number LEAs >=90 percent B/H | Percentage of total LEAs in each state >=90 percent B/H | Number of LEAs >=90 percent B/H with at least one dispute resolution option used |
|---|---|---|---|---|---|
| Mediations requested | Total | 3,592 | 385 | 11 | 51 |
| | MA | 404 | 29 | 7 | 3 |
| | MI | 872 | 94 | 11 | 14 |
| | NJ | 631 | 80 | 13 | 19 |
| | OH | 968 | 101 | 10 | 4 |
| | PA | 717 | 81 | 11 | 11 |
| Due process Complaints filed | Total | 3,592 | 385 | 11 | 70 |
| | MA | 404 | 29 | 7 | 5 |
| | MI | 872 | 94 | 11 | 2 |
| | NJ | 631 | 80 | 13 | 27 |
| | OH | 968 | 101 | 10 | 4 |
| | PA | 717 | 81 | 11 | 32 |
| State complaints filed | Total | 3,592 | 385 | 11 | 45 |
| | MA | 404 | 29 | 7 | 8 |
| | MI | 872 | 94 | 11 | 13 |
| | NJ | 631 | 80 | 13 | 13 |
| | OH | 968 | 101 | 10 | 5 |
| | PA | 717 | 81 | 11 | 6 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by race and ethnicity, as measured by percentage of Black and/or Hispanic (B/H) students, rely on CCD data from SY 2016-17.

**Table 10: Students Receiving Special Education Services, Students Served in Very Low-Minority Local Educational Agencies (LEA) and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18**

| | | Total number of students receiving special education services | Number of students receiving special education services in LEAs <=10 percent B/H | Percentage of total students in each state that are in LEAs <=10 percent B/H | Number of dispute resolutions initiated in LEAs <=10 percent B/H, by state |
|---|---|---|---|---|---|
| Mediations requested | Total | 1,165,401 | 445,208 | 38 | 898 |
| | MA | 170,132 | 68,593 | 40 | 486 |
| | MI | 197,522 | 80,421 | 41 | 69 |
| | NJ | 231,740 | 38,036 | 16 | 110 |
| | OH | 258,823 | 122,963 | 48 | 107 |
| | PA | 307,184 | 135,195 | 44 | 126 |
| Due process complaints filed | Total | 1,165,401 | 445,208 | 38 | 835 |
| | MA | 170,132 | 68,593 | 40 | 247 |
| | MI | 197,522 | 80,421 | 41 | 19 |
| | NJ | 231,740 | 38,036 | 16 | 272 |
| | OH | 258,823 | 122,963 | 48 | 74 |
| | PA | 307,184 | 135,195 | 44 | 223 |
| State complaints filed | Total | 1,165,401 | 445,208 | 38 | 390 |
| | MA | 170,132 | 68,593 | 40 | 194 |
| | MI | 197,522 | 80,421 | 41 | 51 |
| | NJ | 231,740 | 38,036 | 16 | 43 |
| | OH | 258,823 | 122,963 | 48 | 50 |
| | PA | 307,184 | 135,195 | 44 | 52 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by race and ethnicity, as measured by percentage of Black and/or Hispanic (B/H) students, rely on CCD data from SY 2016-17.

**Table 11: Students Receiving Special Education Services, Students Served in Very High-Minority Local Educational Agencies (LEA), and Dispute Resolution Options Used in Selected States, School Year (SY) 2017-18**

| | | Total number of students receiving special education services | Number of students receiving special education services in LEAs >=90 percent B/H | Percentage of total students in each state that are in LEAs >=90 percent B/H | Number of dispute resolutions initiated in LEAs >=90 percent B/H, by state |
|---|---|---|---|---|---|
| Mediations requested | Total | 1,165,401 | 81,275 | 7 | 161 |
| | MA | 170,132 | 5,667 | 3 | 17 |
| | MI | 197,522 | 15,786 | 8 | 35 |
| | NJ | 231,740 | 40,060 | 17 | 88 |
| | OH | 258,823 | 4,122 | 2 | 5 |
| | PA | 307,184 | 15,640 | 5 | 16 |
| Due process complaints filed | Total | 1,165,401 | 81,275 | 7 | 267 |
| | MA | 170,132 | 5,667 | 3 | 8 |
| | MI | 197,522 | 15,786 | 8 | 9 |
| | NJ | 231,740 | 40,060 | 17 | 174 |
| | OH | 258,823 | 4,122 | 2 | 5 |
| | PA | 307,184 | 15,640 | 5 | 71 |
| State complaints filed | Total | 1,165,401 | 81,275 | 7 | 145 |
| | MA | 170,132 | 5,667 | 3 | 23 |
| | MI | 197,522 | 15,786 | 8 | 49 |
| | NJ | 231,740 | 40,060 | 17 | 54 |
| | OH | 258,823 | 4,122 | 2 | 6 |
| | PA | 307,184 | 15,640 | 5 | 13 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by race and ethnicity, as measured by percentage of Black and/or Hispanic (B/H) students, rely on CCD data from SY 2016-17.

**Table 12: Percentage of Local Educational Agencies (LEA) with at least One Mediation Request, Due Process Complaint, and State Complaint initiated in Selected States, at the 90 percent – 10 Percent Income and Minority Levels, School Year (SY) 2017-18**

| | | Percentage of LEAs with at least one dispute resolution initiated | | Percentage of LEAs with at least one dispute resolution initiated | |
|---|---|---|---|---|---|
| | | <=10 percent FRPL | >=90 percent FRPL | <=10 percent B/H | >=90 percent B/H |
| Mediations requested | Total | 46.9 | 10.6 | 21.7 | 13.2 |
| | MA | 71.4 | 40.0 | 56.4 | 10.3 |
| | MI | 16.7 | 15.6 | 11.2 | 14.9 |
| | NJ | 41.4 | 13.6 | 30.9 | 23.8 |
| | OH | 44.1 | 5.9 | 13.5 | 4.0 |
| | PA | 50.0 | 9.0 | 19.7 | 13.6 |
| Due process complaints filed | Total | 56.7 | 12.5 | 20.7 | 18.2 |
| | MA | 64.3 | 20.0 | 43.6 | 17.2 |
| | MI | 16.7 | 0.0 | 3.9 | 2.1 |
| | NJ | 64.1 | 13.6 | 46.9 | 33.8 |
| | OH | 38.2 | 4.4 | 9.8 | 4.0 |
| | PA | 50.0 | 31.5 | 29.7 | 39.5 |
| State complaints filed | Total | 27.3 | 8.4 | 13.8 | 11.7 |
| | MA | 42.9 | 60.0 | 41.9 | 27.6 |
| | MI | 50.0 | 6.7 | 8.4 | 13.8 |
| | NJ | 19.3 | 4.5 | 14.8 | 16.3 |
| | OH | 20.6 | 5.2 | 7.0 | 5.0 |
| | PA | 31.8 | 9.9 | 11.6 | 7.4 |

Source: GAO analysis of dispute data provided by five states and the Department of Education's Common Core of Data | GAO-20-22.

Notes: Number and percentages of LEAs by income level, as measured by percentage of students eligible for free or reduced-price school lunch (FRPL), rely on CCD data from SY 2016-17, and in some cases prior years. Number and percentages of LEAs by minority level, as measured by percentage of Black and/or Hispanic (B/H) students, rely on CCD data from SY 2016-17.

**Table 13: Rate of Mediation Requests, Due Process Complaints, and State Complaints Initiated in Selected States at the 90 percent – 10 Percent Income and Minority Levels, School Year (SY) 2017-18**

| | | Number per 10,000 students, initiated in SY 2017-2018 | | Number per 10,000 students, initiated in SY 2017-2018 | |
|---|---|---|---|---|---|
| | | <=10 percent FRPL | >=90 percent FRPL | <=10 percent B/H | >=90 percent B/H |
| Mediations requested | Total | 35.2 | 13.0 | 20.2 | 19.8 |
| | MA | 99.2 | 23.6 | 70.9 | 30.0 |
| | MI | 6.0 | 33.2 | 8.6 | 22.2 |
| | NJ | 27.3 | 21.9 | 28.9 | 22.0 |
| | OH | 14.6 | 6.3 | 8.7 | 12.1 |
| | PA | 20.5 | 10.8 | 9.3 | 10.2 |
| Due process complaints filed | Total | 44.5 | 34.5 | 18.8 | 32.9 |
| | MA | 58.3 | 10.5 | 36.0 | 14.1 |
| | MI | 6.0 | 0.0 | 2.4 | 5.7 |
| | NJ | 70.2 | 30.6 | 71.5 | 43.4 |
| | OH | 8.7 | 5.1 | 6.0 | 12.1 |
| | PA | 26.6 | 49.1 | 16.5 | 45.4 |
| State complaints filed | Total | 11.7 | 12.4 | 8.8 | 17.8 |
| | MA | 19.4 | 45.9 | 28.3 | 40.6 |
| | MI | 24.2 | 22.7 | 6.3 | 31.0 |
| | NJ | 10.7 | 6.6 | 11.3 | 13.5 |
| | OH | 7.1 | 4.4 | 4.1 | 14.6 |
| | PA | 6.6 | 9.7 | 3.8 | 8.3 |

Source: GAO analysis of dispute data provided by five states and the Department of Education's Common Core of Data. | GAO-20-22

Notes: Number and percentages of LEAs by income level, as measured by percent of students eligible for free or reduced-price school lunch (FRPL), rely on CCD data from SY 2016-17, and in some cases prior years. Number and percentages of LEAs by minority level, as measured by percent of Black and/or Hispanic students (B/H), rely on CCD data from SY 2016-17.

**Table 14: Percentage of Local Educational Agencies (LEA) with at Least One Mediation Request, Due Process Complaint, and State Complaint Initiated in Selected States, at the 75 percent – 25 Percent Income and Minority Levels, School Year (SY) 2017-18**

| | | Percentage of LEAs with at least one dispute resolution initiated | | Percentage of LEAs with at least one dispute resolution initiated | |
|---|---|---|---|---|---|
| | | <=25 percent FRPL | >=75 percent FRPL | <=25 percent B/H | >=75 percent B/H |
| Mediations requested | Total | 38.7 | 12.1 | 24.1 | 12.7 |
| | MA | 60.9 | 30.8 | 58.5 | 11.6 |
| | MI | 9.8 | 13.3 | 11.0 | 13.5 |
| | NJ | 39.0 | 19.2 | 34.8 | 26.4 |
| | OH | 31.3 | 6.3 | 14.4 | 4.3 |
| | PA | 41.6 | 11.2 | 23.9 | 11.2 |
| Due process complaints filed | Total | 43.3 | 15.4 | 24.6 | 17.4 |
| | MA | 51.7 | 33.3 | 45.8 | 18.6 |
| | MI | 8.9 | 1.6 | 5.7 | 1.6 |
| | NJ | 56.0 | 34.2 | 49.9 | 33.0 |
| | OH | 27.2 | 4.9 | 11.5 | 6.2 |
| | PA | 51.3 | 35.7 | 33.4 | 35.3 |
| State complaints filed | Total | 24.1 | 11.5 | 16.6 | 12.1 |
| | MA | 48.3 | 46.2 | 48.2 | 39.5 |
| | MI | 21.4 | 10.1 | 12.8 | 12.7 |
| | NJ | 17.3 | 15.1 | 15.7 | 15.1 |
| | OH | 15.0 | 7.1 | 8.3 | 5.0 |
| | PA | 19.5 | 9.1 | 13.1 | 8.6 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by income level, as measured by percentage of students eligible for free or reduced-price school lunch (FRPL), rely on CCD data from SY 2016-17, and in some cases prior years. Number and percentages of LEAs by minority level, as measured by percentage of Black and/or Hispanic (B/H) students, rely on CCD data from SY 2016-17.

**Table 15: Rate of Mediation Requests, Due Process Complaints, and State Complaints Initiated in Selected States at the 75 percent – 25 Percent Income and Minority Levels, School Year (SY) 2017-18**

| | | Number per 10,000 students, initiated in SY 2017-2018 | | Number per 10,000 students, initiated in SY 2017-2018 | |
|---|---|---|---|---|---|
| | | <=25 percent FRPL | >=75 percent FRPL | <=25 percent B/H | >=75 percent B/H |
| Mediations requested | Total | 27.9 | 16.4 | 19.6 | 21.6 |
| | MA | 78.4 | 47.8 | 67.5 | 76.1 |
| | MI | 4.5 | 16.0 | 6.9 | 19.7 |
| | NJ | 24.7 | 21.4 | 23.5 | 21.3 |
| | OH | 12.3 | 4.8 | 8.4 | 4.3 |
| | PA | 16.7 | 10.4 | 11.3 | 7.0 |
| Due process complaints filed | Total | 34.6 | 25.7 | 21.6 | 27.3 |
| | MA | 43.6 | 13.1 | 34.4 | 12.3 |
| | MI | 4.7 | 1.7 | 3.3 | 4.6 |
| | NJ | 65.7 | 29.8 | 61.0 | 39.4 |
| | OH | 9.0 | 7.9 | 6.2 | 17.7 |
| | PA | 24.5 | 52.1 | 19.0 | 36.9 |
| State complaints filed | Total | 11.7 | 14.0 | 9.4 | 16.4 |
| | MA | 29.2 | 33.6 | 30.1 | 42.8 |
| | MI | 13.2 | 19.8 | 9.0 | 28.8 |
| | NJ | 8.7 | 13.9 | 8.7 | 11.6 |
| | OH | 6.7 | 6.1 | 4.3 | 8.0 |
| | PA | 4.6 | 9.7 | 3.9 | 8.2 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data (CCD). | GAO-20-22

Notes: Number and percentages of LEAs by income level, as measured by percent of students eligible for free or reduced-price school lunch (FRPL), rely on CCD data from SY 2016-17, and in some cases prior years. Number and percentages of LEAs by minority level, as measured by percent of Black and/or Hispanic students (B/H), rely on CCD data from SY 2016-17.

**Table 16: Percentage of Local Educational Agencies (LEA) with Mediation Requests, Due Process Complaints, and State Complaints by Population Density in Selected States, School Year (SY) 2017-18**

| | | Total districts | Percentage of districts with at least one mediation request initiated SY 2017-2018 | Percentage of districts with at least one due process complaint initiated SY 2017-2018 | Percentage of districts with at least one state complaint, initiated SY 2017-2018 |
|---|---|---|---|---|---|
| All | Total | 3,694 | 22.3 | 23.7 | 16.4 |
| | Urban | 711 | 12.2 | 14.8 | 12.9 |
| | Suburban | 1,572 | 34.8 | 38.5 | 24.9 |
| | Rural | 1,411 | 13.5 | 11.7 | 8.6 |
| MA | Total | 404 | 52.5 | 42.3 | 48.8 |
| | Urban | 47 | 23.4 | 23.4 | 51.1 |
| | Suburban | 256 | 62.5 | 53.1 | 55.1 |
| | Rural | 101 | 40.6 | 23.8 | 31.7 |
| MI | Total | 883 | 12.1 | 5.8 | 13.6 |
| | Urban | 169 | 18.3 | 6.5 | 16.6 |
| | Suburban | 252 | 10.7 | 8.3 | 24.2 |
| | Rural | 462 | 10.6 | 4.1 | 6.7 |
| NJ | Total | 648 | 34.0 | 45.7 | 17.1 |
| | Urban | 59 | 18.6 | 28.8 | 11.9 |
| | Suburban | 469 | 38.2 | 51.4 | 19.0 |
| | Rural | 120 | 25.0 | 31.7 | 12.5 |
| OH | Total | 972 | 12.2 | 10.3 | 8.4 |
| | Urban | 283 | 4.6 | 4.2 | 7.1 |
| | Suburban | 267 | 27.7 | 23.6 | 14.6 |
| | Rural | 422 | 7.6 | 5.9 | 5.5 |
| PA | Total | 787 | 21.2 | 32.7 | 12.1 |
| | Urban | 153 | 13.7 | 35.3 | 8.5 |
| | Suburban | 328 | 32.6 | 43.9 | 18.9 |
| | Rural | 306 | 12.7 | 19.3 | 6.5 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data. | GAO-20-22

**Table 17: Rate of Mediation Requests, Due Process Complaints, and State Complaints by Population Density in Selected States, School Year (SY) 2017-18**

| | | Total students | Number of mediation requests per 10,000 students initiated SY 2017-2018 | Number of due process complaints per 10,000 Students initiated SY 2017-2018 | Number of state complaints per 10,000 students initiated SY 2017-2018 |
|---|---|---|---|---|---|
| All | Total | 1,165,742 | 19.9 | 24.2 | 11.1 |
| | Urban | 234,495 | 20.7 | 25.2 | 15.3 |
| | Suburban | 661,144 | 23.0 | 29.5 | 11.7 |
| | Rural | 270,103 | 11.7 | 10.5 | 6.0 |
| MA | Total | 170,132 | 62.8 | 28.3 | 32.5 |
| | Urban | 34,045 | 77.0 | 22.0 | 37.6 |
| | Suburban | 120,215 | 57.7 | 30.2 | 30.9 |
| | Rural | 15,872 | 70.6 | 27.1 | 33.4 |
| MI | Total | 197,782 | 8.2 | 4.1 | 11.2 |
| | Urban | 47,702 | 12.4 | 5.7 | 17.4 |
| | Suburban | 85,913 | 4.3 | 4.1 | 12.1 |
| | Rural | 64,167 | 10.4 | 3.1 | 5.5 |
| NJ | Total | 231,743 | 21.8 | 51.8 | 9.0 |
| | Urban | 25,968 | 18.1 | 38.1 | 14.2 |
| | Suburban | 185,607 | 22.3 | 55.1 | 8.1 |
| | Rural | 20,168 | 21.8 | 38.7 | 10.9 |
| OH | Total | 258,823 | 7.8 | 7.0 | 5.2 |
| | Urban | 57,564 | 4.5 | 7.1 | 7.8 |
| | Suburban | 111,192 | 12.2 | 9.4 | 5.4 |
| | Rural | 90,067 | 4.6 | 3.9 | 3.3 |
| PA | Total | 307,262 | 12.5 | 28.6 | 5.7 |
| | Urban | 69,216 | 13.1 | 50.3 | 9.4 |
| | Suburban | 158,217 | 15.3 | 26.7 | 5.5 |
| | Rural | 79,829 | 6.4 | 13.4 | 2.8 |

Source: GAO analysis of data from five states and the Department of Education's Common Core of Data. | GAO-20-22

# Appendix IV: GAO Contact and Staff Acknowledgments

## Contact

Jaqueline M. Nowicki, Director, (617) 788-0580 or nowickij@gao.gov.

## Staff Acknowledgements

In addition to the contact named above, Bill MacBlane (Assistant Director), David Barish (Analyst-in-Charge), and Linda Siegel made key contributions to this report. In addition, key support was provided by James Bennett, Deborah Bland, Holly Dye, Sheila R. McCoy, Jean McSween, John Mingus, Amy Moran Lowe, Moon Parks, James Rebbe, Kelly Snow, Joy Solmonson, and Greg Whitney.

## GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

## Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (https://www.gao.gov). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to https://www.gao.gov and select "E-mail Updates."

## Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, https://www.gao.gov/ordering.htm.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

## Connect with GAO

Connect with GAO on Facebook, Flickr, Twitter, and YouTube.
Subscribe to our RSS Feeds or E-mail Updates. Listen to our Podcasts.
Visit GAO on the web at https://www.gao.gov.

## To Report Fraud, Waste, and Abuse in Federal Programs

Contact FraudNet:

Website: https://www.gao.gov/fraudnet/fraudnet.htm

Automated answering system: (800) 424-5454 or (202) 512-7700

## Congressional Relations

Orice Williams Brown, Managing Director, WilliamsO@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

## Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

## Strategic Planning and External Liaison

James-Christian Blockwood, Managing Director, spel@gao.gov, (202) 512-4707
U.S. Government Accountability Office, 441 G Street NW, Room 7814,
Washington, DC 20548